INTERNATIONAL COURT OF JUSTICE

Yearbook
2000-2001

No. 55

I.C.J. - THE HAGUE - 2001

YEARBOOK

2000-2001

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ISSN 0074-445X
ISBN 92-1-170078-7

Sales number
N° de vente: **831**

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PRINTED IN THE NETHERLANDS

In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume — fifty-fifth of the series — covers the period from 1 August 2000 to 31 July 2001.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Philippe Couvreur,
Registrar of the Court

TABLE OF CONTENTS

Page

Introduction

I. Basic texts 1

1. Charter of the United Nations 1
2. Statute of the International Court of Justice 1

   (a) Text of the Statute 1
   (b) States parties to the Statute [illegible]
   (c) Amendments to the Statute [illegible]

3. Rules of Court [illegible]

II. Chronological survey 4

(a) Contentious [illegible]
(b) Advisory [illegible]

Chapter I. Organization of the Court

I. Members of the Court 11

1. Composition of the Court 11
2. Former Presidents and Vice-Presidents and former Members of the Court 12

II. Judges *ad hoc* 16
III. Chambers 21

1. Chamber of Summary Procedure 21
2. Chambers provided for in Article 26, paragraph 1, of the Statute 21
3. Chambers formed under Article 26, paragraph 2, of the Statute 22
4. Provisions in the Rules relating to chambers 22

IV. Assessors 22
V. The Registrar 23
VI. Privileges and immunities 23

Chapter II. Biographies of judges

I. Members of the Court on 31 July 2000 26
II. Judges *ad hoc* 61

Page

Chapter III. Jurisdiction of the Court

I. Jurisdiction in contentious cases 97
  1. States entitled to appear before the Court 97
    (a) States Members of the United Nations 97
    (b) States, not members of the United Nations, parties to the Statute 101
    (c) States, not parties to the Statute, to which the Court may be open 103
  2. Basis of the Court's jurisdiction 104
    (a) Special agreement 105
    (b) Cases provided for in treaties and conventions 105
    (c) Compulsory jurisdiction in legal disputes 106
    (d) The Court itself decides any question as to its jurisdiction 107
    (e) Interpretation of a judgment 107
    (f) Revision of a judgment 107
II. Advisory jurisdiction 108

Chapter IV. Texts governing the jurisdiction of the Court

I. Instruments governing the relationship of organs of the United Nations and international organizations with the Court 110
  1. United Nations 110
  2. All specialized agencies 111
  3. International Labour Organisation 112
  4. Food and Agriculture Organization of the United Nations 112
  5. United Nations Educational, Scientific and Cultural Organization 112
  6. World Health Organization 113
  7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association 113
  8. International Monetary Fund 114
  9. International Civil Aviation Organization 114
  10. International Telecommunication Union 114
  11. World Meteorological Organization 114
  12. International Maritime Organization 114
  13. World Intellectual Property Organization 115
  14. International Fund for Agricultural Development 115
  15. United Nations Industrial Development Organization 115
  16. International Atomic Energy Agency 115
II. Declarations recognizing as compulsory the jurisdiction of the Court 116

Page

III. Chronological list of other instruments governing the jurisdiction of the Court 174

Chapter V. Functioning and practice of the Court

I. Seat 178
II. Administration 178
1. The Presidency and the Committees of the Court 178
2. The Registry 179
a) The Registrar and the Deputy Registrar 179
b) Departments of the Registry 180
c) Staff Regulations for the Registry 183
d) Privileges and immunities 185
3. Relations with the public 186
a) Correspondence 186
b) Access to the Court's library and archives 186
c) Information 187
III. Practice in regard to procedure 188
1. General 188
a) Official languages 188
b) Official communications 188
c) Minutes 189
d) General List 189
2. Procedure in contentious cases 190
a) Institution of proceedings and appointment of agents 190
b) Written proceedings 190
c) Oral proceedings 191
d) Deliberations 193
e) Judgment 193
f) Expenses and costs 194
3. Incidental issues in contentious cases 194
a) Provisional measures 194
b) Joinder of proceedings 195
c) Preliminary objections 195
d) Counter-claims 197
e) Intervention, presentation of information 197
f) Default, settlement, discontinuance 198
g) Execution, interpretation or revision of judgments 199
h) Special reference to the Court 199
4. Procedure in advisory cases 199
a) Request 199
b) Written and oral proceedings 199
c) Deliberations 200
d) Advisory opinion 200

Page
IV. Occasional functions entrusted to the President of the International Court of Justice 200
  1. International instruments providing for appointment of arbitrators, etc. 200
  2. Other requests for appointment of arbitrators 201
  3. Other appointments 201

Chapter VI. Work of the Court in 2000-2001
  I. Cases before the Court 203
    1. *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* 203
    2.-3. *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)* 230
    4. *Oil Platforms (Islamic Republic of Iran v. United States of America)* 234
    5. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)* 237
    6. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* 247
    7. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)* 252
    8. *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)* 257
    9. *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)* 259
    10. *LaGrand (Germany v. United States of America)* 260
    11-18. *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. United Kingdom)* 280
    19-21. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) (Democratic Republic of the Congo v. Rwanda)* 284
    22. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia)* 289
    23. *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)* 290
    24. *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* 291

Page
25. *Application for Revision of the Judgment of 11 July 1996 in the Case concerning* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (*Yugoslavia* v. *Bosnia and Herzegovina*) 295
26. *Certain Property* (*Liechtenstein* v. *Germany*) 297

II. Application of the Statute and Rules of Court 299

1. Organization of the Court 299

(*a*) The Presidency 299
(*b*) Non-participation of a judge in a case 299
(*c*) Judges *ad hoc* 300
(*d*) Chamber of Summary Procedure 300
(*e*) Election of a Deputy-Registrar 300

2. Jurisdiction of the Court 301

(*a*) General 301
(*b*) Declaration recognizing as compulsory the jurisdiction of the Court 302
(*c*) Preliminary objections 303

3. Contentious procedure 303

(*a*) Institution of proceedings 303
(*b*) Number of pleadings and fixing or extension of time-limits 304
(*c*) Filing of pleadings 304
(*d*) Presentation of new documents 305
(*e*) Availability of pleadings to States entitled to appear before the Court 306
(*f*) Accessibility of pleadings to the public 306
(*g*) Oral proceedings 306
(*h*) Questions by judges 306
(*i*) Final submissions 307
(*j*) Provisional measures 307
(*k*) Counter-claims 311
(*l*) Intervention 311
(*m*) Discontinuance 312
(*n*) Separate and dissenting opinions and declarations 312
(*o*) Reading of the decision of the Court 313

(i) Judgments 313
(ii) Order 313

(*p*) Interpretation 313
(*q*) Revision 313

III. Museum of the Court 314

Page

IV. Visits . 314
  - A. Official visits of Heads of State 314
  - B. Other visits 315

V. Report and representation of the Court at the General Assembly 316

VI. Applications from private persons 316

Appendix 316
  - 1. Action pursuant to advisory opinions of the Court 316
    - Legality of the threat or use of nuclear weapons 317
  - 2. The role and functioning of the Court 319

Chapter VII. Publications of the Court

I. General 336
  - 1. Series published by the International Court of Justice 336
    - (a) *Reports of Judgments, Advisory Opinions and Orders* 336
    - (b) *Pleadings, Oral Arguments, Documents* 337
    - (c) *Acts and Documents concerning the Organization of the Court* 337
    - (d) *Yearbook* 338
    - (e) *Bibliography of the International Court of Justice* 338
  - 2. Dissemination of the publications of the International Court of Justice 338
  - 3. Publications of the Permanent Court of International Justice 339

II. Official citation of Judgments, Advisory Opinions and Orders 339
  - 1. Permanent Court of International Justice 339
  - 2. International Court of Justice 344

III. Abbreviated references to Pleadings, Oral Arguments, Documents . 356
  - 1. Permanent Court of International Justice 357
  - 2. International Court of Justice 361

Chapter VIII. Finances of the Court

I. Financial regulations 370
  - 1. General regulations 370
    - (*a*) Method of covering expenditure 370
    - (*b*) Drafting of the budget 371
    - (*c*) Financing of appropriations and accounts 371
  - 2. Salaries and expenses of judges 371
    - (*a*) Emoluments . 371
    - (*b*) Pensions 372

Page

(*c*) Conditions of service 373
(*d*) Travelling expenses 374

3. Salaries, allowances and expenses of the Registrar and officials of the Registry 374

(*a*) Emoluments 374
(*b*) Pensions 375
(*c*) Travelling expenses 375

4. Common services 375

II. Budget for the biennium 2000-2001 376

1. Ordinary expenses 376
2. Unforeseen and extraordinary expenses 376
3. Audit of accounts 377

INTRODUCTION

The International Court of Justice, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. Basic Texts

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
>
> 2. A State which is not a Member of the United Nations may

> become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 97-103, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 102-103, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 91-161).

On 5 December 2000 the Court adopted amendments to two Articles of its 1978 Rules: Article 79, relating to preliminary objections, and Article 80, relating to counter-claims. The amendments aim at shortening the duration of these incidental proceedings, the proliferation of which has encumbered many cases, at clarifying the rules in force and at adapting them to affect more closely the practice developed by the Court. They came into force on 1 February 2001. The Rules adopted on 14 April 1978 will continue to apply to all cases submitted to the Court prior to 1 February 2001, and to all phases of those cases.

The text of the Rules of Court as amended has been printed and a *Note by the Registry Indicating the Rules of Court (1978) Amended on 5 December 2000 (Background Note VII)* has been published.

Details of amendments

Article 79

The amendments to Article 79 consist of an amendment to paragraph 1 and the addition of two new paragraphs.

Paragraph 1

The words "as soon as possible, and not later than three months after the delivery of the Memorial" are substituted for the words "within the time-limit fixed for the delivery of the Counter-Memorial".

Paragraph 2

This paragraph is new.

Paragraph 3

This paragraph is new.

The old paragraphs 2 to 8 of Article 79 do not contain amendments, but have been renumbered, respectively, as paragraphs 4 to 10.

Article 80

Paragraph 1

The wording of this paragraph has been revised, as follows:

(*a*) the substitution of the words "The Court may entertain a counter-claim only if" for the words "A counter-claim may be presented provided that";
(*b*) the reversal of the order of the phrases which express the dual requirement for a counter-claim to be entertained by the Court, namely that (i) "it comes within the jurisdiction of the Court", and (ii) "is directly connected with the subject-matter of the claim of the other party".

Paragraph 2

The amendments to this paragraph are as follows:

(*a*) the deletion of the words "of the party presenting it";
(*b*) the substitution of the words "contained therein" for the words "of that party";
(*c*) the addition of a new sentence preserving the right of the other party to present its views on the counter-claim in an additional pleading.

Paragraph 3

This paragraph covers the same ground as the old paragraph 3, but is worded differently to cover (i) any objection concerning the application of paragraph 1 of the same Article and (ii) any question regarding a counter-claim which may be raised at the instance of the Court. In addition, the revised paragraph omits the provision that the Court shall "decide whether or not the question thus presented shall be joined to the original proceedings", and replaces it with the more general clause that the Court "shall take its decision thereon".

II. Chronological Survey

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court (*Corfu Channel (United Kingdom v. Albania)*) was submitted on 22 May 1947.

Between then and 31 July 2001 the Court has had to deal with a total of 122 cases, i.e., 99 contentious cases and 23 advisory cases, as listed below. In those cases it gave 72 judgments, of which 43 were on the merits, and 24 advisory opinions. Of the 386 orders made therein, 282 related solely to the fixing or extending of time-limits, while 353 orders related to contentious cases and 33 to advisory cases.

(a) Contentious[1]

Case	Date
Corfu Channel (*United Kingdom* v. *Albania*)	1947-1949
Fisheries (*United Kingdom* v. *Norway*)	1949-1951
Protection of French Nationals and Protected Persons in Egypt (*France* v. *Egypt*)	1949-1950
Asylum (*Colombia/Peru*)	1949-1950
Rights of Nationals of the United States of America in Morocco (*France* v. *United States of America*)	1950-1952
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (*Colombia* v. *Peru*)	1950
Haya de la Torre (*Colombia* v. *Peru*)	1950-1951
Ambatielos (*Greece* v. *United Kingdom*)	1951-1953
Anglo-Iranian Oil Co. (*United Kingdom* v. *Iran*)	1951-1952
Minquiers and Ecrehos (*France/United Kingdom*)	1951-1953
Nottebohm (*Liechtenstein* v. *Guatemala*)	1951-1955
Monetary Gold Removed from Rome in 1943 (*Italy* v. *France, United Kingdom and United States of America*)	1953-1954
Electricité de Beyrouth Company (*France* v. *Lebanon*)	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (*United States of America* v. *Hungary*)	1954
Treatment in Hungary of Aircraft and Crew of United States of America (*United States of America* v. *USSR*)	1954
Aerial Incident of 10 March 1953 (*United States of America* v. *Czechoslovakia*)	1955-1956
Antarctica (*United Kingdom* v. *Argentina*)	1955-1956
Antarctica (*United Kingdom* v. *Chile*)	1955-1956
Aerial Incident of 7 October 1952 (*United States of America* v. *USSR*)	1955-1956
Certain Norwegian Loans (*France* v. *Norway*)	1955-1957
Right of Passage over Indian Territory (*Portugal* v. *India*)	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (*Netherlands* v. *Sweden*)	1957-1958
Interhandel (*Switzerland* v. *United States of America*)	1957-1959
Aerial Incident of 27 July 1955 (*Israel* v. *Bulgaria*)	1957-1959

---

[1] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	Dates
Aerial Incident of 27 July 1955 (*United States of America* v. *Bulgaria*)	1957-1960
Aerial Incident of 27 July 1955 (*United Kingdom* v. *Bulgaria*)	1957-1959
Sovereignty over Certain Frontier Land (*Belgium/Netherlands*)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (*Honduras* v. *Nicaragua*)	1958-1960
Aerial Incident of 4 September 1954 (*United States of America* v. *USSR*)	1958
Barcelona Traction, Light and Power Company, Limited (*Belgium* v. *Spain*)	1958-1961
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (*France* v. *Lebanon*)	1959-1960
Aerial Incident of 7 November 1954 (*United States of America* v. *USSR*)	1959
Temple of Preah Vihear (*Cambodia* v. *Thailand*)	1959-1962
South West Africa (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*)	1960-1966
Northern Cameroons (*Cameroon* v. *United Kingdom*)	1961-1963
Barcelona Traction, Light and Power Company, Limited (*New Application: 1962*) (*Belgium* v. *Spain*)	1962-1970
North Sea Continental Shelf (*Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands*)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (*India* v. *Pakistan*)	1971-1972
Fisheries Jurisdiction (*United Kingdom* v. *Iceland*)	1972-1974
Fisheries Jurisdiction (*Federal Republic of Germany* v. *Iceland*)	1972-1974
Nuclear Tests (*Australia* v. *France*)	1973-1974
Nuclear Tests (*New Zealand* v. *France*)	1973-1974
Trial of Pakistani Prisoners of War (*Pakistan* v. *India*)	1973
Aegean Sea Continental Shelf (*Greece* v. *Turkey*)	1976-1978
Continental Shelf (*Tunisia/Libyan Arab Jamahiriya*)	1978-1982
United States Diplomatic and Consular Staff in Tehran (*United States of America* v. *Iran*)	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (*Canada/United States of America*) [case referred to a Chamber]	1981-1984
Continental Shelf (*Libyan Arab Jamahiriya/Malta*)	1982-1985
Frontier Dispute (*Burkina Faso/Republic of Mali*) [case referred to a Chamber]	1983-1986

Title	*Dates*
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia v. Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. Costa Rica)	1986-1987
Border and Transborder Armed Actions (Nicaragua v. Honduras)	1986-1992
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy) [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)	1989-1996
Certain Phosphate Lands in Nauru (Nauru v. Australia)	1989-1993
Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-1994
East Timor (Portugal v. Australia)	1991-1995
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)	1991-1995
Passage through the Great Belt (Finland v. Denmark)	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)	1991-2001
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)	1992-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)	1992-
Oil Platforms (Islamic Republic of Iran v. United States of America)	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)	1993-

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Gabčíkovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)	1994-
Fisheries Jurisdiction (Spain v. Canada)	1995-1998
Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) *Case*	1995
Kasikili/Sedudu Island (Botswana/Namibia)	1996-1999
Vienna Convention on Consular Relations (Paraguay v. United States of America)	1998
Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*	1998-1999
Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)	1998-
Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)	1998-
LaGrand (Germany v. United States of America)	1999-2001
Legality of Use of Force (Yugoslavia v. Belgium)	1999-
Legality of Use of Force (Yugoslavia v. Canada)	1999-
Legality of Use of Force (Yugoslavia v. France)	1999-
Legality of Use of Force (Yugoslavia v. Germany)	1999-
Legality of Use of Force (Yugoslavia v. Italy)	1999-
Legality of Use of Force (Yugoslavia v. Netherlands)	1999-
Legality of Use of Force (Yugoslavia v. Portugal)	1999-
Legality of Use of Force (Yugoslavia v. Spain)	1999
Legality of Use of Force (Yugoslavia v. United Kingdom)	1999-
Legality of Use of Force (Yugoslavia v. United States of America)	1999
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi)	1999-2001
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)	1999-
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)	1999-2001
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia)	1999-
Aerial Incident of 10 August 1999 (Pakistan v. India)	1999-2000
Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)	1999-

Title	*Dates*
Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)	2000
Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections *(Yugoslavia v. Bosnia and Herzegovina)*	2001
Certain Property (Liechtenstein v. Germany)	2001

(*b*) Advisory

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982

Title	Date
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-1996
Legality of the Threat or Use of Nuclear Weapons	1994-1996
Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights	1998-1999

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. Members of the Court

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).
On 31 July 2001 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President G. Guillaume	France	5 February 2009[2]
Vice-President		
Shi Jiuyong	China	5 February 2003[2]
Judges S. Oda	Japan	5 February 2003
M. Bedjaoui	Algeria	5 February 2006
R. Ranjeva	Madagascar	5 February 2009
G. Herczegh	Hungary	5 February 2003
C.-A. Fleischhauer	Germany	5 February 2003
A. G. Koroma	Sierra Leone	5 February 2003
V. S. Vereshchetin	Russian Federation	5 February 2006
R. Higgins	United Kingdom	5 February 2009
G. Parra-Aranguren	Venezuela	5 February 2009
P. H. Kooijmans	Netherlands	5 February 2006
F. Rezek	Brazil	5 February 2006
A. S. Al-Khasawneh	Jordan	5 February 2009
T. Buergenthal	United States	5 February 2006

The Members of the Court are elected for nine years, one-third of the otal number of judges being elected every three years, they may be e-elected (Statute, Art. 13). In the event of a vacancy, an election is eld and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

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[1] For the composition of chambers, see pp. 21-22, below.

[2] The terms of office of Judges Guillaume and Shi as President and Vice-President spectively expire in 2003.

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 102, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. *Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;
1949-1952, J. Basdevant and J. G. Guerrero[1];
1952-1955, Sir Arnold McNair and J. G. Guerrero[1];
1955-1958, G. H. Hackworth and A. H. Badawi[2];
1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
1961-1964, B. Winiarski and R. J. Alfaro;
1964-1967, Sir Percy Spender and V. K. Wellington Koo;
1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;

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[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel* (*United Kingdom v. Albania*); *Protection of French Nationals and Protected Persons in Egypt* (*France v. Egypt*); *Rights of Nationals of the United States of America in Morocco* (*France v. United States of America*); *Ambatielos* (*Greece v. United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom v. Iran*); *Minquiers and Ecrehos* (*France/United Kingdom*); *Monetary Gold Removed from Rome in 1943* (*Italy v. France, United Kingdom and United States of America*).

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel* (*Switzerland v. United States of America*), *Interim Protection*, and *Aerial Incident of 27 July 1955* (*United States of America v. Bulgaria*).

1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[1];
1973-1976, M. Lachs and F. Ammoun[1];
1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
1979-1982, Sir Humphrey Waldock[2] and T. O. Elias[3];
1982-1985, T. O. Elias[4] and J. Sette-Camara;
1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[5];
1988-1991, J. M. Ruda and K. Mbaye;
1991-1994, Sir Robert Jennings[6] and S. Oda[6];
1994-1997, M. Bedjaoui and S. M. Schwebel;
1997-2000, S. M. Schwebel[7] and C. G. Weeramantry[7].

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[1] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council, Nuclear Tests (Australia v. France), Interim Protection*, and *Nuclear Tests (New Zealand v. France), Interim Protection*.

[2] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[3] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[4] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[5] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

[6] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

[7] While he was President of the Court, Judge Schwebel, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, *Oil Platforms (Islamic Republic of Iran v. United States of America)*, *Vienna Convention on Consular Relations (Paraguay v. United States of America)*, *LaGrand (Germany v. United States of America)* and *Legality of Use of Force (Yugoslavia v. United States of America)*. Although Article 32 was not applicable in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. Spain) (Yugoslavia v. United Kingdom)*, he did not think it appropriate to exercise the functions of the Presidency in those cases either. It was therefore the Vice-President, Judge Weeramantry, who, in accordance with Article 13, paragraph 1, of the Rules, exercised those functions.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979

* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
Ni Zhengyu	China	1985-1994
* C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petren	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
S. M. Schwebel	United States	1981-2000
J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
C. G. Weeramantry	Sri Lanka	1991-2000
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961
	and	1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES *AD HOC*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. Albania). Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru)* and *Haya de la Torre (Colombia v. Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. United Kingdom). Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. Iran). Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. Guatemala). Mr. C. Garcia Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America). Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. India). Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden). Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. United States of America). Mr. P. Carry was chosen by Switzerland.

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. Garcia Bauer.

Aerial Incident of 27 July 1955 (Israel v. Bulgaria). Mr. Justice Goitein was chosen by Israel and Mr. J. Zourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)[1]. Mr. J. Zourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua). Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguin (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)[1]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. South Africa; Liberia v. South Africa). Sir Louis Mbanefo (Nigeria)[2] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. United Kingdom). Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain). Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sorensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan). Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. France). Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. France). Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. India). Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[3].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

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[1] Case removed from the List before the Court had occasion to sit.

[2] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

[3] This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Aegean Sea Continental Shelf (*Greece* v. *Turkey*). Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (*Tunisia/Libyan Arab Jamahiriya*). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (*Canada/United States of America*) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (*Libyan Arab Jamahiriya/Malta*). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (*Burkina Faso/Republic of Mali*) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (*Nicaragua* v. *United States of America*). Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (*Tunisia* v. *Libyan Arab Jamahiriya*). Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (*El Salvador/Honduras; Nicaragua intervening*) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (*Denmark* v. *Norway*). Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (*Islamic Republic of Iran* v. *United States of America*). Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran[1].

Arbitral Award of 31 July 1989 (*Guinea-Bissau* v. *Senegal*). Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

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[1] Case removed from the List before the Court held occasion to hear argument on the preliminary objections raised by the United States.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. Australia). Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. Denmark). Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain). Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernardez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana). After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc*.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom). Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*. The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America). Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. United States of America). Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia). Mr. E. Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina and Mr. M. Kreća by Yugoslavia.

Gabčikovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria). Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. Canada). Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case.* Sir Geoffrey Palmer was chosen by New Zealand.

Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*. Prince B. A. Ajibola was chosen by Nigeria and Mr. K. Mbaye (Senegal) by Cameroon.

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). Mr. M. Shahabuddeen (Guyana) was chosen by Indonesia. Following the resignation of Mr. Shahabuddeen, Mr. Thomas Franck (United States of America) was chosen by Indonesia. Mr. C. G. Weeramantry (Sri Lanka) was chosen by Malaysia.

Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. Spain) (Yugoslavia v. United Kingdom) (Yugoslavia v. United States of America). In all ten cases Yugoslavia chose Mr. M. Kreća; in the case of *Yugoslavia v. Belgium*, Mr. P. Duinslaeger was chosen by Belgium; in the case of *Yugoslavia v. Canada*, Mr. M. Lalonde was chosen by Canada; in the case of *Yugoslavia v. Italy*, Mr. G. Gaja was chosen by Italy and in the case of *Yugoslavia v. Spain*, Mr. S. Torres Bernárdez was chosen by Spain. These have been sitting as such during the examination of Yugoslavia's requests for the indication of provisional measures.

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) (Democratic Republic of the Congo v. Rwanda). In all three cases Mr. Joe Verhoeven (Belgium) was chosen by the Democratic Republic of the Congo; in the case of *Democratic Republic of the Congo v. Burundi*, Mr. J. J. A. Salmon (Belgium) was chosen by Burundi; in the case of *Democratic Republic of the Congo v. Uganda*, Mr. James L. Kateka (Tanzania) was chosen by Uganda; and, in the case of *Democratic Republic of the Congo v. Rwanda*, Mr. C. J. R. Dugard (South Africa) was chosen by Rwanda.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia). Mr. B. Vukas was chosen by Croatia and Mr. M. Kreća by Yugoslavia.

Aerial Incident of 10 August 1999 (Pakistan v. India). Mr. S. S. U. Pirzada was chosen by Pakistan and Mr. B. P. J. Reddy by India.

Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium). Mr. Sayeman Bula-Bula was chosen by the Democratic Rebublic of the Congo and Mrs. Christine Van den Wyngaert by Belgium.

Certain Property (Liechtenstein v. Germany), Mr. Ian Brownlie (United Kingdom) was chosen by Liechtenstein.

III. CHAMBERS

1. *Chamber of Summary Procedure*

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Guillaume; Vice-President Shi; Judges Herczegh, Koroma and Parra-Aranguren, members; Judges Higgins and Al-Khasawneh, substitute members.

2. *Chambers Provided for in Article 26, Paragraph 1, of the Statute*

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called "*ad hoc*" chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters to deal with such cases as parties might refer to it in accordance with Article 26 of the Statute. The Chamber was, on 8 February 2000, composed as follows, for a period of three years: President Guillaume; Vice-President Shi; and Judges Bedjaoui, Ranjeva, Herczegh, Rezek and Al-Khasawneh.

3. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982: Judges Ago (*President*), Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985: Judges Bedjaoui (*President*), Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy): constituted on 2 March 1987 with the following composition: Judges Nagendra Singh (*President*), Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras; Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition: Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara (*President*), Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Philippe Couvreur (see Chap. V, p. 181, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 2000 to 1 July 2001 will be found below

I. MEMBERS OF THE COURT ON 31 JULY 2001

President Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected from 6 February 1991 and from 6 February 2000; President of the Court since 7 February 2000)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from e Paris Institute of Political Studies. Diplôme d'études supérieures économie politique et de science économique (Diploma of Advanced udies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des rquêtes (1963), and most recently Councillor of State (1981-1996).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); ench Representative on the Legal Committee of the International vil Aviation Organization (ICAO) (1968-1979) and Chairman of the mmittee (1971-1975); delegate to the diplomatic conferences on the ppression of the unlawful seizure of aircraft (The Hague, 1970), suppression of unlawful acts against the safety of civil aircraft ontreal, 1971) and air safety (Rome, 1973); President of the plomatic Conference on the Liability of the Carrier (Montreal, 1975); ad of the French delegations to the diplomatic conferences on the bility of the carrier vis-à-vis third parties (Montreal, 1978) and the n-use of force against civil aircraft (Montreal, 1984).

hairman of the Conciliation Commission, Organisation for Eco- mic Co-operation and Development (1973-1978); Member of the ropean Space Agency Appeals Board (1975-1978); Director of Legal airs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

ounsel for France in the arbitration proceedings between France and United States over the Franco-American air agreement (1978); Agent France in the arbitration proceedings between France and Canada r the Franco-Canadian fisheries agreement (1986); Agent for France numerous cases before the Court of Justice of the European mmunities and the European Commission and Court of Human

Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization (INTELSAT), the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*. President of the Institute of Air and Space Law of Leiden University.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994).

Vice-President Shi Jiuyong

(Member of the Court since 6 February 1994; Vice-President
of the Court since 7 February 2000)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Adviser, Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations etween the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative f the International Law Commission to the forty-fifth session of the nited Nations General Assembly (1990). Expert from China, Senior egal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 Sep-ember 1991 at Nairobi. Representative of the International Law ommission to the thirtieth meeting of the Asian-African Legal

Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (1994-1997).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September-October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France

(May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Judge Shigeru ODA

(Member of the Court since 6 February 1976; re-elected as from 6 February 1985 and from 6 February 1994; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1991 to 1994; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*.)

Born on 22 October 1924.

Law degree, University of Tokyo (1947). Doctor of Law (JSD), Yale University (1953). Doctor of Law, University of Tōhoku (1962). Presently Professor Emeritus of the Tōhoku University (since 1985) and Member of the Japan Academy (since 1994). Awarded the Yale Law School Medal of Merit (1997). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Research Fellow in international law, University of Tokyo (1947-1949). Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at Tōhoku University. Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968); Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the

Legal Implications of the Disposal of Radio-active Waste into the Sea (1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Council of the International Law Association of Japan. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Japanese Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law (since 1987); Member of the Curatorium of the Institute of International Public Law and International Relations (Thessaloniki). Member of the International Council of Arbitration for Sport (since 1994). Member of the Board of the International Development Law Institute (since 1995).

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). General editor for *Publications on Ocean Development* and *International Law in Japanese Perspective* of Kluwer Law International (Martinus Nijhoff).

Lecturer on the "International Law of the Resources of the Sea" and on "The International Court of Justice Viewed from the Bench (1976-1993)" at the Hague Academy of International Law (*Recueil des cours*, Vol. 127, 1969, and Vol. 244, 1993).

Publications: in English *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our Time* (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese *International Law of the Sea* (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. I, 1979; *The Law of the Sea: 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983, sixth revised ed., 1996; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. I, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Mohammed BEDJAOUI

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988 and from 6 February 1997; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court from 1994 to 1997)

Born in Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law, Law Faculty of the University of Grenoble, France (1955). Doctor *honoris causa* of the Universities of Hyderabad, Aix-en-Provence, Brussels, Kuwait, Madrid-Complutense and Madrid-Carlos III. Diploma of the Institute of Political Studies, University of Grenoble (1952).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation in the independence negotiations at Evian and Lugrin (1961).

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Co-President of the United Nations Commission of Enquiry to Iran February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against he Recruitment, Use, Financing and Training of Mercenaries (1981-1982). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in everal international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the ea (1976-1980).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or confernces of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation. United Nations

Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law (since 1977); First Vice-President of the Institute (Strasbourg 1997-Berlin 1999). Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta. Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan) (1982-1987). Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America). Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco). Member of the Unesco *Ad Hoc* Forum for Reflection (1992). Member of the Unesco International Consultative Committee on Bioethics (1994-1999). Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing. Member of the International Council for Global Health Progress (since 1994). Member of the Independent World Commission on the Oceans (President: Mr. Mario Soares) (1995-1998).

Recipient of various prizes and honours.

Holder of decorations of several States.

Author of eight books and over 200 articles.

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991; re-elected as from 6 February 2000)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Doctor *honoris causa* of the Universities of Limoges and Strasbourg. Laureate of the University of Madagascar, of the National Association of Doctors of Law and of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas), the Institute of Advanced International Studies, La Réunion and Burundi, and the Free University of Brussels. Director of the French-speaking research seminar at the Hague Academy of International Law (1987); gave a course at the Hague Academy of International Law in 1997. Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of nvestment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on he Law of the Sea; Preparatory Commission for the International Sea-bed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the nited Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977). Member of the Malagasy delegation responsible or negotiating the revision of the co-operation agreements with France 1973); First Vice-President for Africa of the International Conference of rench-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso Republic of Mali)*. Consultant for Madagascar on ne amicable settlement of the transfer to the State of the activities of au-Electricité de Madagascar and Electricité de France (1973) and in ne case of SEDITEX INTERNATIONAL GmbH Hamburg Republic f Madagascar.

Co-opted Member and Arbitrator of the Court of Arbitration for Sport.

Member and Vice-President of the Malagasy Academy of Sciences, iterature and Arts (1974); President of the ethics and political science ection (1976-1991). Managing Director of JURECO: legal, economic nd financial databank research and advisory bodies (1986-1990). ditor of the periodical *Lettre mensuelle de Jureco* (1986-1988).

Member of the Board of the French Society of International Law. lember of the Quebec Society of International Law. Member of the overning Body of the African Society of International and Comparative aw. Member of the Scientific Council of the Agence universitaire de la rancophonie (AUPELF-UREF). Associate Member of the Institute of ternational Law.

Member of the National Constitutional Committee (1975). Founding ember of the Malagasy Human Rights Committee (1971). Legal lviser to the Catholic Bishops Conference, Madagascar. Secretary-eneral of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the

Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays, articles and of addresses at several conferences.

Judge Géza HERCZEGH

(Member of the Court since 10 May 1993; re-elected as from 6 February 1994)

Born in Nagykapos, on 17 October 1928.

Educated at French Grammar School in Gödöllö, Hungary.

Bachelor's degree in law, University of Szeged (1951); Candidate in Jurisprudence (Ph.D.) (1965); Doctor *honoris causa* at the Law Faculty of the University of Marburg, Germany (1990) and of the University of Pécs, Hungary (2000); Corresponding Member (1985), and Member of the Hungarian Academy of Sciences (1990); Vice-President of the Department of Legal and Economic Sciences of the Hungarian Academy of Sciences (1990-1993).

Research Fellow in public international law at the Institute of Political Sciences, Budapest (1951-1967); studies as Senior Fellow at various institutes, for example in Paris (1966), Salzburg (1970); Professor of Law, Head of the International Law Department of the Law Faculty of the University of Pécs (1967-1990); Dean of the Law Faculty of the University of Pécs (1981-1987); lectured in international humanitarian law at several universities (e.g., Bayreuth, Bratislava, Cambridge, Cracow, Exeter, Graz, Marburg, Moscow, Osijek, Novi Sad, Vienna) (1970-1985); lecturer in seminars for the implementation and dissemination of international humanitarian law, Warsaw (1985), Vegimont (1989).

Judge and Vice-President of the Constitutional Court of the Republic of Hungary (1990-1993).

Represented the Hungarian Red Cross Society as expert on international humanitarian law at the conferences of The Hague (1971), Vienna (1972), Tehran (1973), Monaco (1984); governmental expert on international humanitarian law at the conferences of Geneva (1971 and 1972); member of the Hungarian delegation at the Diplomatic Conference of Geneva on the protection of victims of armed conflicts (1974-1977); served as Vice-President of the Third Commission of the same Conference; member of the Hungarian delegation at the Unesco Conference in Sophia (1985); Rapporteur at the Third Conference on Parliamentary Democracy organized by the Council of Europe on the topic "Problems of Transition from an Authoritarian or Totalitarian Régime to a Genuinely Democratic System", Strasbourg (1991); member of the expert working group ("Badinter Group") preparing the draft convention on peaceful settlement of disputes within the framework of the Conference on Security and Co-operation in Europe, Paris (1992).

Author of the following works: *The Colonial Question and International Law* (in Hungarian), 1962; *General Principles of Law and the International Legal Order*, Series in Foreign Languages, 1969; *Development of International Humanitarian Law*, 1984; *Foreign Policy of Hungary, 896-1919* (in Hungarian), 1987; *From the Attentat of Sarajevo to the Potsdam Conference* (in Hungarian), 1999; and of numerous articles in international law and relations, especially in international humanitarian law and on the rights of minorities.

Judge Carl-August FLEISCHHAUER

(Member of the Court since 6 February 1994)

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister Düsseldorf Heidelberg (1955-1959). Dr. jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max-Planck Institute for Comparative Public Law and International Law, Heidelberg (1960-1962).

Entered the foreign service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969), Deputy Head (1971) and Head (1972), International Law Section, Legal Department, Federal Foreign Office. Principal Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva

(1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Was actively engaged, on the side of the Federal Republic of Germany, in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969); and *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Curatorium of the Max-Planck Institute for International and Foreign Public Law, Heidelberg (since 1975). Member of the Heidelberg Society for International and Foreign Public Law. Member of the Société française pour le droit international.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge Abdul G. Koroma

(Member of the Court since 6 February 1994)

Born in Freetown, Sierra Leone.

LL.M. (Honours), Kiev State University; Master of Philosophy (International Law), King's College, University of London; Hon. LL.D., University of Sierra Leone; Barrister-at-Law, Honorary Bencher, Honourable Society of Lincoln's Inn, London.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High

Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992).

As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Played an active role in and contributed to the elaboration of various contemporary legal instruments. Member of the International Law Commission (January 1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Relations between States and International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Served as expert consultant to the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on all of these topics in many countries, including Cameroon, Canada, China, Ethiopia, Germany, Greece, India, Japan, Malta, Norway, Sweden, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law; Member, Planning Council of the International Ocean Institute (Halifax and Malta); Member and Vice-President of the African Association of International and Comparative Law; Vice-President of the African Society of International and Comparative Law; President, Henri Dunant Centre for Humanitarian Dialogue (Geneva); Member of the Board, University of Pretoria (South Africa).

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Among articles published: "Humanitarian Intervention and Contemporary International Law", *Swiss Review of International and European Law*, No. 4 (1995); "The Peaceful Settlement of International Disputes", *Netherlands International Review*, Vol. XLIII, 1996/7; "50th Anniversary of the Universal Declaration of Human Rights: Human Rights and International Humanitarian Law", *International Review of the Red Cross*, 1998; "The Influence of the Universal Declaration of Human Rights in Africa — Fifty Years after Its Adoption — A Legal Perspective", *Africa Legal Aid Quarterly*, 1998; "International Justice in Relation to the International Court of Justice", *Thesaurus Acroasium*, Vol. XXVI, Thessaloniki; "Implementation of the Law of the Sea Convention through Its Institutions: An Overview", in D. Vidas and W. Ostreng (eds.), *Order for the Oceans at the Turn of the Century*; "The Humanitarian Consequences of Small Arms Proliferation", Paper delivered under the auspices of the Henry Dunant Centre for Humanitarian Dialogue; "The Future of the Common Heritage of Mankind", *1982 Convention on the Law of the Sea*, published by the Law of the Sea Institute, University of

Hawaii, Honolulu; "Provisional Measures in Disputes between African States before the International Court of Justice", in *The International Legal System in Quest of Equity and Universality, Liber Amicorum Georges Abi-Saab*, ed. by Laurence Boisson de Chazournes and Vera Gowlland-Debbas, 2001; "Social Justice and the Role of an International Judge", Paper delivered at the Colloquium on Social Justice and International Law in Honour of Professor Georges Abi-Saab, 2001; Book Review on *Human Rights in Africa Series*, ed. Professor Christof Heyns, *Leiden Journal of International Law*, 2001; "Africa's Place in the International Justice System", Paper delivered at the 643rd Wilton Park Conference: ustice in Africa, 2001; "Refugees: A Continuing Challenge", Paper lelivered at the 25th Round Table on Current Problems of International Humanitarian Law, International Institute of Humanitarian Law, San Remo, 2001; "The Protection of Civilian Populations in Non-nternational Armed Conflicts", Paper delivered at the Third Meeting of xperts, International Institute of Humanitarian Law, Stockholm, 2001 forthcoming).

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995; re-elected as from 6 February 1997)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated (with honours) from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate tudies in international law at the same Institute (1955-1958). Candidate f Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982). Maitre émérite des Sciences of he Russian Federation (1995).

Staff member of the Presidium of the USSR Academy of Sciences 1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, SSR Academy of Sciences (1967-1981). Deputy Director and Head of he International Law Department of the Institute of State and Law, ussian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission 1992-1995); Chairman of the Commission (1994). Member of the USSR elegations to the United Nations Committee on the Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of nternational law, the peaceful settlement of international disputes, the w of the sea, the law of outer space and the law of international rganizations at the Institute of International Relations, the Diplomatic cademy and the University of Friendship of Peoples (Moscow), the uridical Institute (Ekaterinburg), the Institute of International Public aw and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Cleveland, Akron and Mississippi, the Institute of International Private and Public Law (The Hague) and the University of Dundee. Has presented papers on different international law subjects at many national and international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (1985-1997). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President of the Russian (formerly Soviet) United Nations Association (1984-1997). Vice-President (1978-1995), Honorary Director of the International Institute of Space Law. Member of the Policy and Finance Committee of the International Law Association (since 1990). Member, Board of Directors of the International Institute of Air and Space Law, Leiden University (since 1995). Member (since 1977), Trustee (1985-1996) of the International Academy of Astronautics. GLODIS External Academic Fellow, Erasmus University, Rotterdam (since 2000).

Member of the editorial and advisory boards of the *Russian Law Journal* and the *Journal of Space Law* (United States).

Orders and awards: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981). Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the International Institute of Space Law (1995), the Russian Association of International Law (1995).

Author of more than 150 works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995; re-elected as from 6 February 2000)

Born in London on 2 June 1937.

Dame Commander of the British Empire (1995).

Fellow of the British Academy; Fellow of the American Academy of Arts and Sciences.

B.A. (Cantab.) 1st Class (1959); LL.B. (Cantab.) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab.) (1962); Honorary Doctorates of the Universities of Paris XI (1980), Dundee (1992), Durham and the London School of Economics (1995), Cambridge, Kent, Essex, Sussex, Greenwich and London City University (1996), Birmingham, Leicester, Glasgow (1997), Nottingham (1999) and Bath (2001). Awarded the Yale Law School Medal of Merit (1997) and the Manley O. Hudson Medal (1998).

Minor Scholar, Girton College, Cambridge (1957); Major Scholar, Girton College, Cambridge (1958); Campbell Scholarship for Professional Studies (1957); Montefiore Award for academic and general distinction (1958); Bryce-Tebbs Scholar, Cambridge (1958); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961).

United Kingdom Interne, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Queen's Counsel and Bencher of the Inner Temple, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *East Timor (Portugal v. Australia)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*.

President, Tribunal of the International Centre for Settlement of Investment Disputes (*Amco v. Indonesia*).

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman, Public International Law Advisory Board, British Institute for International and Comparative Law (since 1992); Hon. Vice-President of the American Society of International Law (1993).

Rockefeller Foundation Fellowship (1961); British Academy Award (1977-1978); Volumes I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; *Problems and Process* received the 1995 Certificate of Merit of the American Society of International Law; Wolfgang Friedman Medal for services to International Law, Columbia University (1985); Harold Weil Medal, New York University (1995); Ordre des Palmes Academiques (1988); Honorary Life Membership Award, American Society of International Law (1992).

Past member of the Board of Editors of the *American Journal of*

International Law and the *Journal of Energy and Natural Resources Law*. Member of the Board of Editors of the *British Year Book of International Law*.

Delivered general course on international law at the Hague Academy of International Law (1991).

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement — Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994; and of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Judge Gonzalo PARRA-ARANGUREN

(Member of the Court since 28 February 1996; re-elected as from 6 February 2000)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences (*summa cum laude*) at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law ("*doktor iuris*") (*cum laude*) at the Ludwig-Maximileans University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Course of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the commission of enquiry appointed in 1985 by the

Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965 that was essentially reproduced in the Venezuelan Private International Law Act (1998); and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965). The Venezuelan Supreme Court of Justice published in 2001 in his homage a compilation of the *travaux préparatoires* and the consideration by Congress of the 1998 Private International Law Act as well as a selection of explanatory commentaries and relevant decisions applying to it.

Member of the legal advisory committee of the Ministry of Foreign Affairs (1984-1996) and of the legal advisory council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding Member of the National Academy of Law and Social Sciences of Cordoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding Member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again n 1996 for one year. Honorary Member of the same Council since 1993.

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal*, Caracas, and of the editorial board of the *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, aracas (from its establishment until 1996). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various ountries: in Curaçao, at the commemoration of the centenary of the ntroduction of the Civil Code and the Installation of the High Court of ustice (1969); at the course on international law (Rio de Janeiro, 1978, 979, 1982, 1988, 1992 and 1997), organized by the Inter-American uridical Committee and the Brazilian Foundation "Gétulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogotá, June 1995); at the Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law: The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private

International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993). Member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees; and of the Special Commission (second meeting, June 1995) on the Protection of Minors and Incompetent Adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986; *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998.

Has published numerous articles on the law of nationality, private nternational law and international civil procedural law in Venezuelan nd foreign journals.

Judge Pieter Hendrik KOOIJMANS

(Member of the Court since 6 February 1997)

Born at Heemstede, Netherlands, on 6 July 1933.

Econ. B. (1955), LL.M. (with honours) (1957), Dr. Iuris, Free niversity, Amsterdam (with honours) (1964).

Professor of Public International Law and European Law, Free niversity, Amsterdam (1965-1973). Professor of Public International aw, University of Leiden (1977-1992, 1995-1997).

State Secretary for Foreign Affairs of the Netherlands (1973-1977). Minister for Foreign Affairs of the Netherlands (1993-1994).

Member of the Netherlands delegation to the General Assembly of the nited Nations (1967, Sixth Committee), Vice-Chairman (1973-1977), Chairman (1993). Head of the Netherlands delegation to various sessions of the Third United Nations Conference on the Law of the Sea (1974-1977), to the First Review Conference of the Non-Proliferation Treaty (1975), to the Geneva Diplomatic Conference on humanitarian law in armed conflict (1975) and to the United Nations Conference on *Apartheid* (1977). Head of the Netherlands delegation to the United Nations Commission on Human Rights (1982-1985, 1992).

Chairman of the United Nations Commission on Human Rights (1984-1985). Special Rapporteur of the United Nations Commission on Human Rights on Questions relevant to Torture (1985-1992).

Member of various United Nations and Conference on Security and Co-operation in Europe (CSCE) missions to the former Yugoslavia (1991-1992).

Member of the Group of International Advisors of the International Committee of the Red Cross.

Member and former Chairman of the Netherlands Branch of the International Law Association. Member of the Institut de droit international.

Former positions: Member of the Permanent Court of Arbitration. Chairman of the Supervisory Board of the Netherlands Research Center for African Studies. Vice-President of the European Cultural Foundation. Chairman of the Board of the Carnegie Foundation. Chairman of the Administrative Council of the Hague Academy of International Law. Chairman of the Board of the Netherlands Disaster Relief Agency. Chairman of the Supervisory Board of the Netherlands Refugee Foundation. Chairman of the Netherlands Foundation for support to the democratic institutions of the new South Africa. Vice-Chairman of the Dutch Evangelical Party (merged in 1980 with two other parties into the Christian Democratic Party). Chairman of the Foreign Affairs Committee of the Christian Democratic Party. Member of the Steering Committee of the International Crisis Group. Member of the Advisory Committee on Questions of International Law (Dutch Ministry of Foreign Affairs). Member of the Advisory Council on Questions of Peace and Security (Dutch Ministries of Foreign Affairs and Defence). Member of the Board of Editors of the *Netherlands International Law Review*. Chairman of the Board of the Institute of Social Studies (postgraduate school on questions of development). Chairman of the Board of the Netherlands Institute of Peace-related Issues. Vice-Chairman of the Advisory Commission on Questions of Aliens (quasi-judicial body, Dutch Ministry of Justice). Chairman of the Advisory Committee on Questions of Disarmament (Dutch Ministry of Foreign Affairs). Member of the Advisory Defence Council (Dutch Ministry of Defence). Member of various advisory commissions on the Codification of the Law of Aliens and of Refugees (Dutch Ministry of Justice).

Lecturer at the Hague Academy of International Law (1976 and 1991).

Author of numerous publications on international law.

Judge Francisco REZEK

(Member of the Court since 6 February 1997)

Born in Cristina, Minas Gerais (Brazil), on 18 January 1944.

LL.B (1966), D.E.S. (1967): Federal University of Minas Gerais (Belo Horizonte, MG). Docteur de l'Université de Paris-Sorbonne (1970). Diploma in Law, University of Oxford (1979).

Extension courses and research programmes: Harvard University (1965); the Hague Academy of International Law (1968, 1970).

Professor of International Law and Constitutional Law at the University of Brasilia (1971-1997). Chairman of the Department of Law (1974-1976). Dean of the Faculty of Social Studies (1978-1979). Professor of International Law at Rio Branco Institute (the official diplomatic school of Brazil) (1976-1997). Lecturer at the Hague Academy of International Law (1986) and at the Institute of International Public Law and International Relations, Thessaloniki (1989).

President of conferences, lecturer and examiner in contests for professorship in the major Brazilian universities (since 1971).

Attorney of the Republic before the Supreme Court of Brazil (1972-1979); Deputy Attorney-General of the Republic (1979-1983). Justice of the Supreme Court of Brazil, appointed by the President with approval of the Senate, March 1983, at the age of 39. Resigned in March 1990. Appointed again in April 1992 for life, retired in 1997.

Foreign Minister of Brazil (from March 1990 to April 1992).

Member of the Permanent Court of Arbitration (since 1987).

Published works: *The Law of Treaties* (in Portuguese), 1984; *Public International Law* (in Portuguese), 1st ed., 1989, 8th ed., 2000; *Droit des raités: particularités des actes constitutifs d'organisations internationales*, 1968; *La conduite des relations internationales dans le droit constitutionnel atino-américain*, 1970; "Aspectos elementares do Estatuto da Igualdade", n *Boletim do Ministério da Justiça*, No. 277, 1978; "Reciprocity as a Basis of Extradition", in *British Year Book of International Law*, Vol. 52, 981; "Protection of the Victims of Armed Conflicts: Wounded, Sick and shipwrecked", in *International Dimensions of Humanitarian Law*, Unesco, nstitut Henry Dunant, 1988 (preceded by a French edition, 1986); "Le droit international de la nationalité", Hague Academy of International Law, *Recueil des cours*, Vol. 198, 1986; "Sur le fondement du droit des ens", in *Essays in Honour of Krzysztof Skubiszewski*, 1996; "A New nternational Order", in *Review of International Affairs*, 1990; "Una olitica comercial para los nuevos tiempos", in *Revista Latinoamericana e Integración*, 1991; "Imunidade do Estado estrangeiro à jurisdição ocal", in *Hector Gross Espiel liber amicorum*, 1997.

About 45 monographs and other legal studies published in specialized eriodicals in Brazil. More than 300 advisory opinions pronounced on ehalf of the Public Ministry in cases put before the Supreme Court of razil and published in its quarterly Report (1972-1983). More than 500 decisions or dissenting opinions pronounced in the Supreme Court of Brazil and published in its quarterly Report and in other periodicals (1983-1995).

Judge Awn Shawkat AL-KHASAWNEH

(Member of the Court since 6 February 2000)

Born in Amman, Jordan, on 22 February 1950.

Primary and secondary education at the Islamic Educational College of Amman. University education at Cambridge University (Queens' College), history and law, postgraduate studies in international law. M.A. LL.M. (Cantab.)

Joined the Jordanian diplomatic service in 1975. Second Secretary, then First Secretary at the Permanent Mission of Jordan to the United Nations in New York (1976-1980). Ministry of Foreign Affairs with special responsibility for international organizations and international law (1980-1985). Head of the Legal Department at the Ministry of Foreign Affairs (1985-1990). Seconded to the Royal Court (1990). Ambassador (1992). Adviser to the King and Adviser of the State on International Law with the rank of Cabinet Minister (1995). Chief of the Royal Hashemite Court (1996-1998).

Member of the Jordanian Royal Commission on Legislative and Administrative Reform (1994-1996). Chairman of the Jordanian National Group on the Implementation of International Humanitarian Law (1998).

Representative of Jordan at 19 sessions of the General Assembly of the United Nations (the Sixth (Legal) Committee) (since 1976). Jordan's alternate representative on the Security Council (1981-1982). Member of most Jordanian delegations to meetings of the Arab League, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference held in the years 1980-1988. Member of, and Legal Adviser to, the Jordanian delegation to the peace negotiations in the Middle East (1991-1994).

Representative of Jordan at the following conferences and committees in the field of the codification and progressive development of international law: *Ad Hoc* Committee on the Drafting of an International Convention against the Taking of Hostages (1977-1980); United Nations Conference on Succession of States in Respect of Treaties, Second Session (1978); United Nations Conference on Succession of States in Respect of State Property, Archives and Debts (1982); Chairman of the Drafting Committee at the United Nations Conference on Treaties between States and International Organizations or between International Organizations (1986). Rome Conference on the drafting of a Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988).

Member of the Arab International Law Commission (1982-1989).

Member of the United Nations Sub-Commission on the Prevention of

Discrimination and Protection of Minorities (1984-1993). Chairman of the Sub-Commission (1993).

Special Rapporteur of the Commission on Human Rights on the human rights dimensions of forcible population transfer.

Chairman of Commission IV, Unesco General Conference (1993).

Member of the International Law Commission (1986-1999).

Member of the International Law Association, Committee on Maritime Neutrality (1994).

Member of the Board of Editors, *Palestine Yearbook of International Law*.

Member of the Council of the Centre of Islamic and Middle Eastern Law at the School of Oriental and African Studies, University of London.

Lectured and participated widely in academic seminars at various universities, including Oxford, Cambridge, London, Geneva and universities in Jordan.

Publications: Three reports on the human rights dimensions of forcible population transfers, to the Subcommission on Prevention of Discrimination and Protection of Minorities (1993-1997); "General Principles and Methods for Executing a New Convention", in *Environmental Protection and the Law of War*, 1992; "The International Law Commission and Middle East Waters", in *Water in the Middle East: Legal, Political and Commercial Implications*, 1995.

Honours: Istiqlal Order, First Class (1993); Kawkab Order, First Class (1996), Nahda Order, First Class (1996) (Jordan). Legion d'honneur, Grand Officier (1997) (France).

Judge Thomas BUERGENTHAL

(Member of the Court since 2 March 2000)

Born 11 May 1934.

B.A., Bethany College, West Virginia (1957); Juris Doctor, New York niversity School of Law (Root Tilden Scholar) (1960); Master of Laws, Harvard Law School (1961); Doctor of Juridical Science, Harvard Law School (1968). Honorary Doctorates in Law: Bethany College (1981), Uniersity of Heidelberg, Germany (1986), Free University of Brussels (VUB), Belgium (1994), State University of New York (Buffalo) (2000).

Member of the Bars of the State of New York, District of Columbia, nd United States Supreme Court.

Instructor in Legal Method, University of Pennsylvania School of Law 1961-1962); Professor of Law, State University of New York (Buffalo) chool of Law (1962-1975); Fulbright and Jaworski Professor of nternational Law, University of Texas School of Law (1975-1980); Dean nd Professor of International Law, Washington College of Law, The American University (1980-1985); I. T. Cohen Professor of Human ights, Emory University School of Law, and Fellow, Carter Center of

Emory University (Director, Human Rights Program (1985-1989)); Lobingier Professor of Comparative Law and Jurisprudence and Presiding Director, International Rule of Law Center, The George Washington University Law School (1989-2000).

Chairman, United States Government Delegation to Unesco Specialized Conference on International Education (1974); United States expert, Unesco Meeting of Experts on the Implementation of the 1974 Unesco Recommendation on International Education (1976); Chairman, Human Rights Committee, United States National Commission for Unesco (1976-1979); Chief United States Government Representative, Unesco Executive Board Working Group on Human Rights Procedures (1977 and 1978); Member, Advisory Board, President's Commission on the Holocaust (1978-1979); Vice-President, Unesco Congress on the Teaching of Human Rights, and Chairman, United States Delegation to the Congress (Vienna, 1978); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Copenhagen (1990); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Expert Meeting on Democratic Institutions, Oslo (1991); Member, United States Holocaust Memorial Council (1996-2001); Chairman, Committee on Conscience, United States Holocaust Memorial Council (1997-1999).

Judge, Vice-President, President, Inter-American Court of Human Rights (1979-1991); Judge, Vice-President, President, Administrative Tribunal, Inter-American Development Bank (1989-1994); Member, United Nations Human Rights Committee (1995-1999); Member, United Nations Truth Commission for El Salvador (1992-1993); Member, Panels of Conciliators and of Arbitrators, International Centre for Settlement of Investment Disputes, World Bank (since 1997); Vice-Chairman, Claims Resolution Tribunal for Dormant Accounts in Switzerland (1999-2000).

Rapporteur, Study Panel on International Human Rights Law and Its Implementation, American Society of International Law (1970-1975); Member, Board of Directors, International Institute of Human Rights (René Cassin Foundation), Strasbourg, France (1970-1989); Member, Executive Council, American Society of International Law (1977-1980; 1986-1989); Vice-President, American Society of International Law (1980-1982); Honorary Vice-President (1994-1999); Honorary President (since 2001); Advisory Committee (1980-1986), American Law Institute, Restatement (Third) on the Foreign Relations Law of the United States; Associate Reporter (1978-1980); Chairman, Human Rights Committee, International Law and Practice Section, American Bar Association (1981-1982; 1991-1992); Member, Administrative Council, Blaustein Institute of Human Rights (1996-2000); Member, Kuratorium and Scientific Council, Max Planck Institute for Public International Law, Heidelberg, Germany (since 1984); Founder and President, Inter-American Institute of Human Rights (1980-1992), Honorary President

ince 1992); Member, Board of Directors, F. M. van Asbeck Centre for
Iuman Rights Studies, University of Leiden, Netherlands (since 1991);
Iember, Advisory Board, Brazilian Institute of Human Rights (since
997); Member, Standing Committee on World Order under Law,
merican Bar Association (1997-1999); Vice-Chairman, Academic
ouncil, Institute of Transnational Arbitration (since 1998).

Member of the American Bar Association, American Society of
iternational Law, American Law Institute, Council on Foreign
elations, German Society of International Law.

Pro-Humanitas Prize, West-Ost Kulturwerk (Federal Republic of
ermany) (1978); Unesco Human Rights Prize (First Honourable
Iention) (1978); Book Award (First Prize) of the Inter-American Bar
ssociation for *Protecting Human Rights in the Americas: Selected
roblems* (1982); Distinguished Service in Legal Education Award, New
ork University Law School Association (1987); Wolfgang G.
iedmann Memorial Award for Outstanding Achievement in
ternational Law, Columbia University Law School (1989); Harry
eroy Jones Award for Outstanding Achievements in Foreign and
ternational Law, Washington Foreign Law Society (1990); Human
ghts Prize, Jacob Blaustein Institute for the Advancement of Human
ghts (1997); Goler T. Butcher Medal for Excellence in Human Rights,
nerican Society of International Law (1997).

Member of the following Editorial Boards: *American Journal of Com-
rative Law* (1966-1977); *American Journal of International Law*; *Human
ghts Law Journal*; *Europäische Grundrechte Zeitschrift*; *Revue universelle
s droits de l'homme*; and *Encyclopedia of Public International Law*.

Author of numerous books, essays and articles. Books include, *inter
a*: *Law-Making in the International Civil Aviation Organization*, 1969;
ernational Protection of Human Rights (with L. B. Sohn), 1973; *Public
ernational Law* (with J. G. Maier), 2nd ed., 1990; *International Human
ghts*, 2nd ed., 1995; *Protecting Human Rights in the Americas* (with
Shelton), 4th ed., 1995.

II. JUDGES *AD HOC*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad
* are to take precedence after the Members of the Court and in order
seniority of age.

Judge *ad hoc* Sir Robert Yewdall JENNINGS

dge *ad hoc* in the case concerning *Questions of Interpretation and
plication of the 1971 Montreal Convention arising from the Aerial Incident
at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*))

Born on 19 October 1913.

tudied at Cambridge University, obtaining the degrees of M.A.

and LL.B. and subsequently at Harvard University (Choate Fellow, 1936-1937).

Honorary Doctor of Law, Universities of Hull (1987), Saarland (1988), Rome (1990), Cambridge (1993), Leicester and Oxford (1996).

Assistant Lecturer in Law, London School of Economics (1938-1939) and Honorary Fellow (1994). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro, Beagle Channel,* Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X v. United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

President of the PCA Arbital Tribunal in the *Eritrea-Yemen Arbitration* (1996-1999).

Member (1982-1995) and President (1991-1994) of the International Court of Justice, member of its Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1986-1992) and its Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)* (1987-1989).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldlock and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President (1981) and Honorary Member (1985) of the Institute of International Law.

Honorary Life Member of the American Society of International Law and of the Indian Society of International Law.

Received the Manley Hudson Medal of the American Society of International Law (1993).

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of *Acquisition of Territory in International Law* (1963); *Oppenheim's International Law* (9th ed.), Vol. I, with Sir Arthur Watts; *Collected Writings of Sir Robert Jennings*, 2 vols., 1998; and various articles, mainly in the *British Year Book of International Law*.

Judge *ad hoc* Kéba MBAYE

(Judge *ad hoc* in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*)

Holder of the diploma of advanced studies in private law (Paris);
lder of the certificate of the Ecole nationale de la France d'outre-mer
lagistrature Department).
Honorary First President of the Supreme Court.
ormer President of the Constitutional Council of Senegal.
ormer lecturer at the Faculty of Law of the University of Dakar and
he Ecole nationale d'administration of Senegal (1967-1978).
Doctor *honoris causa* of the Universities of Lille II, Savoie and Nice
ance), Bhopal (India) and Emory (United States of America).
Member of the International Court of Justice (6 February 1982 to
ebruary 1991). Vice-President of the Court (1987 to 1991); formerly
ge *ad hoc* in the cases concerning the *Arbitral Award of 31 July 1989*
inea-Bissau v. Senegal) and the *Request for Interpretation of the*
gment of 11 June 1998 in the Case concerning the Land and Maritime
ndary between Cameroon and Nigeria (Cameroon v. Nigeria),
iminary Objections *(Nigeria v. Cameroon)*.
las been a member of various United Nations bodies and has in
icular participated as member and chairman in the work of the
mission on Human Rights, the Commission responsible for seeking
settlement of any dispute between States Parties to the Convention
nst Discrimination in Education, the Special Committee to investigate
eli Practices Affecting the Human Rights of the Population of the
upied Territories, and of the *Ad Hoc* Working Group of Experts to
stigate violations of human rights in southern Africa; former member
e ILO Committee of Experts.
ce-Chairman of the Executive Committee of the International
tute of Human Rights (René Cassin Foundation); Honorary Member
e International Institute of Humanitarian Law; former Chairman of
nternational Commission of Jurists; Honorary President of the World
ration of United Nations Associations; former President of the
national Academy of Human Rights; Member of the Société
aise pour le droit international; Vice-President of the Institut interna-
l de droit d'expression française.
neral Rapporteur at the Organization of African Unity Con-
ce which adopted the African Charter on Human and Peoples'
s.
norary Member of the Belgian Académie royale des sciences
re-mer; Member of the International Academy of Comparative
of the International Law Association, and of the Académie fran-
des sciences d'outre-mer. Vice-President of the Curatorium of
Hague Academy of International Law; Honorary Member of

the Institute of International Law; former Vice-Chairman of the ICC International Court of Arbitration; President of the Court of Arbitration for Sport and of the International Council of Arbitration for Sport.

Author of numerous publications concerning the law of Senegal, the law of sub-Saharan Africa, human rights in general, and in particular the right to development, the law of sport. Gave a lecture on "'Interest to Act' before the International Court of Justice" at the Hague Academy of International Law (1988).

Judge *ad hoc* François Ernest Robert Rigaux

(Judge *ad hoc* in the case concerning *Oil Platforms*
(*Islamic Republic of Iran* v. *United States of America*))

Born in Ixelles, Belgium, on 26 March 1926.

Bachelier of Philosophy (1945); Doctor of Law (1947); Licencié in Criminal Science (1948); Agrégé in Law (1956); Doctor *honoris causa* of the University of Dijon (1981).

Senior Lecturer (1955), Assistant Professor (1959) and Professor (1961) in the Faculty of Law of the Université catholique de Louvain. Subjects taught: civil law (persons and property); private international law; protection of the individual and of privacy. Dean of the Faculty of Law (1980-1984), and President of the International Law Department of the Université catholique de Louvain. Professor emeritus at the Université catholique de Louvain (1991) and Visiting Professor, Faculty of Law (1991-1992; 1992-1993). Visiting Professor, Catholic University, Brussels (1993-1994 and 1994-1995) and University Faculties at Saint Louis, Brussels (1995-2000).

As well as courses and lectures at various foreign universities, particularly in Florence, Bremen, Barcelona, Caracas, Caceres, Geneva, Hamburg, Madrid, Milan, Munich, Nancy, Regensburg, Rio de Janeiro, Würzburg and Baton Rouge, gave courses as follows: a course at the Hague Academy of International Law on change of connecting factors in private international law (1966), published in the collection *Recueil des cours*; the General Course on Private International Law in 1989 on "Les situations juridiques individuelles dans un système de relativité générale", also published in the *Recueil des cours*; Visiting Professor at the Université Lovanium, Kinshasa (1970); holder of the Francqui Professorship at the Université libre de Bruxelles (1975-1976 academic year), where he taught a course entitled "Droit public et droit privé dans les relations internationales" (published in 1977); course at the Institut des hautes études internationales (Paris, 1978-1979 academic year) on the new international economic order (published in the Institute's "collection des cours et travaux"); Director of Studies of the 1979 summer programme of the Institut universitaire de Luxembourg on the impact of the EEC on the private international law of its member States (work published in 1980). Holder of the Francqui Professorship in the Faculty of Law of the Katholieke Universiteit Leuven (Catholic University of Louvain) (1980-1981 academic year), where he taught a course on "Le pluralisme juridique". Holder of the Francqui Professorship at the Facultés universitaires Notre-Dame de la Paix, Namur (1991-1992 academic year), where he taught a course on "La liberté de la vie privée". Holder of the Francqui Professorship at the University of Ghent (1996-1997) where he taught a course on "Le règlement juridictionnel des conflits de normes". Invited to give lectures at the Tunis Faculty of Law (1988 and 1989), the Florence Faculty of Political Science (1988), he Faculty of Law of the Université d'Aix-Marseille (1991-1992) and he Faculty of Law of Louisiana State University, Baton Rouge 1994-1995).

Served on Ph.D. examining boards at the Universities of Antwerp, Barcelona, Dijon, Ghent, Lyons, Nice, Paris, Reims, Strasbourg and unis.

Member of the Bar of Brussels (1947-1954). Deputy Royal Procurator 1954-1963). At present, Honorary Deputy Royal Procurator. Assessor, egislation Section of the Conseil d'Etat (1966-1991), authorized by oyal Order to bear the honorary title of that function.

Member of the Constitutional Court of the Federation of Bosnia and lerzegovina (1996-2001).

Member of the Institute of International Law (and Third Vice-resident from 1983 to 1985). Member of the Institut belge de droit omparé. Former President of the Société belge de droit internation-l. Former President of the scientific council of the *Revue belge de roit international*. Member of the Académie royale de Belgique. Associate) Member of the International Academy of Comparative aw.

Winner of the Prix des Anciens Présidents et du *Journal des tribunaux* warded to a first-year trainee (1947-1948 judicial year). Winner of the mile van Dievoet Prize (period 1951-1955) for his work entitled: *La éorie des qualifications en droit international privé*. Winner of the egatum Visserianum" Prize awarded in January 1962 by the College Curators of Leiden University for a dissertation on Representation Comparative Private International Law, submitted on 1 March 59. Winner of the José A. Negri Prize awarded by the Federal ouncil of Argentine Notaries for the collective work "Les régimes atrimoniaux et les successions en droit international privé", edited by m in 1961 on the occasion of the Seventh International Congress of tin Notaries.

Officer of the Order of Leopold (1968), Commander of the Order the Crown (1977), Grand Officer of the Order of Leopold II 988).

Principal publications: *La théorie des qualifications en droit internationa vé*, 1956; *Le statut de la représentation en droit internationa* *privé*, 1959; *La nature du contrôle de la Cour de cassation*, 1966; *Précis de droit international privé*, 1968; *Précis de droit des personnes*, Vol. I: *Les relations familiales*, 1971, updated with the collaboration of M.-T. Meulders-Klein, 1978; *Introduction à la science du droit*, 1974; *Droit public et droit privé dans les relations internationales* (publication of the *Revue générale de droit international public*, No. 26), 1977; *Droit international privé*, Vol. I: *Théorie générale*, 1977, revised 2nd ed., 1987; Vol. II: *Droit positif belge*, 1979, revised 2nd ed. with the collaboration of Marc Fallon, 1993; *Pour un autre ordre international*, Droit économique 2, Institut des hautes études internationales de Paris, 1979-1980; *Derecho internacional privado, parte general*, translation and adaptation to Spanish law of Volume I of *Droit international privé*, by Mrs. A. Borras Rodriguez, 1985; *La Carta di Algeri*, translated by Anna Lo Monaco, 1988; "Les situations juridiques individuelles dans un système de relativité générale (Cours général de droit international privé)", *Recueil des cours*, Hague Academy of International Law, Vol. 213, 1989; *Pour une déclaration universelle des droits des peuples*, 1990; *La protection de la vie privée et des autres biens de la personnalité*, 1990; *La vie privée, une liberté parmi les autres?*, 1992; *La loi des juges*, 1997; *A lei dos juízes* (Brazilian translation), 2000; (Portuguese translation), 2000; *Plaisir, interdits et pouvoir*, 2000.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań (*magister juris*) (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard School of Law (Master of Laws) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz and Geneva.

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of

nternational Studies at Geneva; College of Europe at Bruges, Belgium,
nd also the Clubs of International Law of Harvard, Duke and Oxford
niversities; Max-Planck Institute in Heidelberg; Universities of Vienna
nd Graz; Faculty of Law, University of Paris II; Royal Institute of
nternational Affairs, Chatham House; All Souls College, Oxford; Institut
'Etudes Politiques de Paris; Free University, Berlin; also Hersch
auterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford
990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991);
lague Academy Jubilee Lecture (1998); and numerous other lectures
n European, American, Australian and Asian Societies of Political and
egal Sciences or International Relations.

Member of "Solidarity" (since 1980); Member of the Primate of
oland Social Council (1981-1984); Member of the Co-ordinating Com-
ittee of the Poland-Federal Republic of Germany Forum, representing
e secretariat of the Polish Episcopate (1984-1989); Member of the
onsultative Council to the Chairman of the Council of State of the
olish People's Republic (1986-1989); Minister for Foreign Affairs (1989-
991).

Member (since 4 December 1993) and President (since 16 February
994) of the Iran-United States Claims Tribunal.

Member, Bureau of the Court of Conciliation and Arbitration within
e Organisation for Security and Co-operation in Europe (OSCE),
eneva (1995-2000).

Judge *ad hoc* in the International Court of Justice in the case concerning
ast Timor (Portugal v. Australia).

Chairman of the Arbitration Tribunal Netherlands-France set up under
e Rhine Convention of 1976.

Co-founder and first Chairman of the Council on Foreign Policy
arsaw, 1996).

Member of the Academies of Sciences of Warsaw and of Cracow;
orrespondent, Institut de France; Member, Society of Arts and Sciences,
oznan; Western Institute, Poznan; International Law Association
olish branch); Institut de droit international (First Vice-President,
995-1997); American Society of International Law (Honorary Member,
991); Société française pour le droit international; Deutsche Gesellschaft
r Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher,
ay's Inn; Curator, United Nations Student Association, Poznan
960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polo-
a Restituta (1986); Grand Cross of the same Order (1993); Cava-
re di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier
la Légion d'honneur (1991); Grosskreuz des Verdienstordens der
ndesrepublik Deutschland (1991); Order of Diplomatic Merit of the
public of Korea (1991); Cross of Merit of the Republic of Hungary
994).

Alexander von Humboldt Foundation research prize (1984); Wartburg
ze, Germany (1992); Robert Schuman Gold Medal (1999); German-

Polish prize (1999, awarded by virtue of Article 35 of the Treaty of 1991 between the two States).

Author of five books and over 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Christopher G. WEERAMANTRY

(Judge *ad hoc* in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*))

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A.; LL.B.; LL.D. (University of London); LL.D. (*honoris causa*) (University of Colombo), LL.D. (*honoris causa*) (Monash University).

Advocate, Supreme Court of Sri Lanka (1948-1965). Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956). Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967). Justice of the Supreme Court of Sri Lanka (1967-1972). Member, Council of Legal Education, Sri Lanka (1967-1972). Honorary Visiting Professor, University of Colombo (since 1984). Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991). Emeritus Professor of Law, Monash University (since 1991). Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/Government of Nigeria Conference on Legal Status of *Apartheid* Regime, Lagos (1984); Panellist, SCOPE/ENUWAR/UNU (Scientists' Committee on Problems of the Environment/Environmental Consequences of Nuclear War/United Nations University), International Conference on Nuclear Danger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member of the International Court of Justice (6 February 1991 to 5 February 2000); Vice-President of the Court (1997 to 2000).

Member, Editorial Board: *Sri Lankan Journal of International Law*; *Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*; Advisory Board, *China Law Reports*; *Georgetown International Environmental Law Review*; Editorial Advisory Board, *Asia Pacific Journal of Environmental Law*; Board of Recommendation, *Yearbook of International Humanitarian Law*; Editorial Board of Advisers, *Pacifica Review*.

Associate Member, Institute of International Law; Associate Academician, International Academy of Comparative Law, Paris; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-Patron, United Nations Association of Sri Lanka; Member, Club of Rome (Australia); Commonwealth Lawyers Association; Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: The Closing Phases?*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technol-gy*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurispru-ence: Some International Perspectives*, 1988; *Human Rights and Scientific nd Technological Development*, ed., 1990; *Nauru: Environmental Damage nder International Trusteeship*, 1992; *The Impact of Technology on Human ights: Global Case-Studies*, ed., 1993; *Justice without Frontiers*, Vol. I, *urthering Human Rights*, 1997; Vol. II, *Protecting Human Rights in the ge of Technology*, 1998; *The Lord's Prayer: Bridge to a Better World*, 998.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 oint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North merica.

Published lectures include: "Fundamental Perspectives on Equality nd Freedom", World Congress on Equality and Freedom, St. Louis, issouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human ghts", Unesco Seminar on Teaching of Human Rights, Canberra 981); "The Right to Development", Lawasia Seminar on tablishment of a Regional Human Rights Framework for the Pacific, va (1985); "Cultural and Ideological Pluralism in Contemporary blic International Law", World Congress of International Academy Comparative Law, Sydney and Melbourne (1986); "Traffic in maments: A Blind Spot in Human Rights and International Law", Joint Soviet US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990); "The Importance of Philosophical Perspectives to the Judicial Process", 6 *Connecticut Journal of International Law* (1991); "Does International Law Matter?", *Inaugural Tun Hussein Onn Memorial Lecture*, Kuala Lumpur (1991); "The Right to Know: Freedom of Information as a Human Right", Commonwealth Law Conference, Cyprus (1993); "Introducing Human Rights to the Younger Generation", Unesco, Netherlands (1993); "The Constancy of the Judicial Obligation", Inaugural Fernando Memorial Lecture, Colombo (1994); "The World Court: Its Conception, Constitution and Contribution", *Inaugural Governor's Forum*, Melbourne, Victoria, Australia (1994); 1995 Martin Luther King Lecture, "On Earth as It Is in Heaven: A Vision of World Order for the 21st Century", *Tulsa Journal of Comparative and International Law*, 1995; Inaugural Nagendra Singh Memorial Lecture, "The International Court of Justice in the Age of Multiculturalism", 36 *Indian Journal of International Law* (1996); "Some Practical Problems of International Adjudication", 17 *Australian Year Book of International Law* (1996); "The Function of the International Court of Justice in the Development of International Law", 10 *Leiden Journal of International Law* (1997); "Private International Law and Public International Law", 12 *Rivista di diritto internazionale privato e processuale*, No. 2 (1998); "Some Buddhist Perspectives on International Law", in *Festschrift in Honour of Boutros Boutros-Ghali*, 1998; "Human Rights and the Global Marketplace", XXV *Brooklyn Journal of International Law*, No. 1 (1999); "Inaugural Grotius Lecture", 14 *American University International Law Review*, No. 6 (1999).

Order of *Deshamanya* (Sri Lanka); Mohamed Sahabdeen Award for International Understanding in the SAARC Region, 1993.

Judge *ad hoc* Sir Elihu LAUTERPACHT

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*)

Born in London, United Kingdom, on 13 July 1928.

Cambridge University, B.A. (1949); L.L.M. (1950); Whewell Scholar in International Law (1950).

Lecturer (1955) and Reader (1982) in International Law, University of Cambridge.

Director of the Research Centre for International Law (1983-1995) and Honorary Professor of International Law, University of Cambridge.

Fellow of Trinity College, Cambridge (1953).

Barrister (1950); Queen's Counsel (1970); Bencher of Gray's Inn.

Commander of the British Empire (C.B.E.) (1989).

Knight (1998).

Legal Adviser of the Australian Department of Foreign Affairs 1975-1977); deputy leader of the Australian delegation to the United Nations General Assembly (1975-1977); deputy leader of the Aus- ralian delegation to the United Nations Law of the Sea Conference (1975- 977).

Counsel or advocate in numerous cases before the International Court f Justice, the European Commission of Human Rights, the Iran-United tates Claims Tribunal, various international arbitral tribunals and ational courts; counsel and adviser to many Governments and cor- orations.

Member of the Panel of Arbitrators of the International Centre for he Settlement of Investment Disputes (ICSID) (since 1974); Member of he Panel of Arbitrators of the Dispute Settlement Centre of the nternational Energy Agency (since 1980).

Chairman of the East African Common Market Tribunal (1972-1975); lember (1979-1998) and President (1996-1998) of the World Bank dministrative Tribunal; Chairman of the Asian Development Bank dministrative Tribunal (1992-1995); Chairman of the Dispute Settle- ent Panel under Chapter XX of the North American Free Trade greement (1996); President of an ICSID (Additional Facility) rbitration Tribunal established pursuant to Chapter XI of the North merican Free Trade Agreement (1997-2000); Member of an ICSID rbitration Tribunal (since 1997); President of an ICSID Arbitration ursuant to a bilateral investment treaty (since 1998); Chairman, Panel o. F3 of the United Nations Compensation Commission (1998-1999); resident, Eritrea Ethiopia Boundary Commission (since 2001).

Member of the Institute of International Law; Honorary Member of e American Society of International Law.

Director, English-speaking Section, Research Centre of the Hague cademy of International Law (1959 and 1960); delivered course of ctures at the Hague Academy of International Law on "The evelopment of the Law of International Organization by the Decisions International Tribunals" (1976) and on "Principles of International tigation" (1996).

Editor of the *International Law Reports* (since 1960) and founder editor *British Practice in International Law*.

Publications include *Aspects of the Administration of International Justice* (1991); "The Development of the Law of International Organization by the Decisions of International Tribunals", Hague Academy of International Law, *Recueil des cours* (1976); *Jerusalem and the Holy Places* (1968); and many articles.

Judge *ad hoc* Marc LALONDE

(Judge *ad hoc* in the case concerning the *Legality of Use of Force (Yugoslavia* v. *Canada)*)

Born in Ile Perrot, Quebec, Canada, on 26 July 1929.

B.A., St. Laurent College, Montreal (1949); LL.L., University of Montreal (1954); M.A. (Law), University of Montreal (1955); M.A. (Oxon.) (Economics and Political Science), Oxford University (1957); Diploma of Superior Studies in Law, University of Ottawa (1960); LL.D. *honoris causa*, Limburg University, Netherlands (1993).

Called to the Bar of Quebec (1955).

Professor of Commercial Law and Economics, University of Montreal (1957-1959); Special Assistant to the Canadian Minister of Justice (1959-1960); Partner, Gélinas, Bourque, Lalonde & Benoit, Montreal (1960-1967); Lecturer in Administrative Law for Doctoral Students, University of Ottawa and University of Montreal (1961-1962); Policy Adviser to Lester B. Pearson, Prime Minister of Canada (1967-1968); Principal Secretary to Pierre E. Trudeau, Prime Minister of Canada (1968-1972); Member of Parliament (1972-1984); Minister of Health and Welfare (1972-1977); Minister Responsible for the Status of Women (1974-1979); Minister of State Responsible for Federal-Provincial Relations (1977-1978); Minister of Justice and Attorney General for Canada (1978-1979); Minister of Energy, Mines and Resources (1980-1982); Minister of Finance (1982-1984); Partner, Stikeman Elliott, Montreal, Quebec (since 1984).

Member of the Board of Directors of Citibank Canada, O & Y Properties Corporation, Sherrit Power Corp., Oxbow Equities Corp. and Atlantis Systems International.

Member of the International Advisory Council to the Presidium of Ukraine (1990-1997); the Advisory Committee on Constitutional Matters in Czechoslovakia (1989-1991); the International Advisory Council of Air France (1991-1994).

Chairman of the Council of Governors, Canada-Chile Board of Trade (since 1995). Chairman of Hôtel-Dieu Hospital, Montreal, Quebec (1984-1997).

Judge *ad hoc* in the International Court of Justice in the case concerning *Fisheries Jurisdiction (Spain* v. *Canada)* (1995-1998).

Member of the Quebec Bar; the Law Society of Upper Canada (Ontario

Bar); the American Bar Association (associate member); the International Bar Association; the Canadian Bar Association; the Chambre de Commerce de Montréal; the Chambre de Commerce France-Canada; the International Council on Commercial Arbitration; the Corporate Counsel Committee, American Arbitration Association; Chairman of the North American Users Committee of the London Court of International Arbitration; Corresponding Member of the Institute of International Business Law and Practice of the International Chamber of Commerce and of the Canadian Arbitration Committee of the International Chamber of Commerce; Member of the Council of the Royal College of Physicians and Surgeons of Canada (lay member) (1995-1997).

Has written a number of articles and delivered lectures in Canada and ibroad on arbitration. Has also been a frequent speaker to national and nternational conferences in the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

Queen's Counsel (1971); Member of the Privy Council of Canada 1972); Officer of the Order of Canada (1989).

Judge *ad hoc* Thomas M. FRANCK

Judge *ad hoc* in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*

Born in Berlin, Germany, on 14 July 1931. American citizen.

University of British Columbia, B.A. (1952); LL.B. (1953); Harvard aw School, LL.M. (1954); S.J.D. (1959); University of British olumbia, Hon. LL.D. (1995).

Assistant Professor, University of Nebraska College of Law 1954-1956); Associate Professor (1960-1962) and Professor (since 1962), ew York University School of Law; Visiting Professor, Stanford Law chool (1963); University of East Africa Law School (Dar es Salaam) lternating semesters) (1963-1966); Osgood Hall Law School, York niversity (Toronto) (alternating semesters) (1972-1976); Director, enter for International Studies, New York University School of Law ince 1965); Director, International Law Program, Carnegie Endowment r International Peace (1973-1979); Visiting Professor, Woodrow Wilson hool, Princeton University (1979); Director of Research, United ations Institute for Training and Research (1980-1982); Lecturer, ague Academy of International Law: General Course in Public ternational Law (1993); Visiting Fellow, Trinity College, Cambridge 996-1997).

Legal Adviser or Counsellor to the Governments of Tanganyika, enya, Zanzibar, Mauritius, Solomon Islands, El Salvador, Chad, osnia and Herzegovina; Member, Commission on Legal Education, overnment of Sierra Leone (1964); Director, Panel to Recommend an

Implementation of Title IX, Assistance to Legal Institutions in LDCs, USAID (1970-1972); NGO Representative (The Carnegie Endowment), the Law of the Sea Conference (Caracas and Kampala) (1974); Geneva (1976); New York (1977); Geneva (1978)); Representative of the Solomon Islands to the United Nations General Assembly (1978-1979); Consultant to USAID Section 116 (*e*) Human Rights Project, Legal Aid Program for Ghana (1985); Department of State Advisory Committee on International Law (1986-1993); Counsel to the Government of Chad in the case concerning *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* before the International Court of Justice (1992-1994); Counsel to the Government of Bosnia and Herzegovina in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)* before the International Court of Justice (1994).

American Branch of the International Law Association, Member of the Executive Committee (since 1968), Secretary-Treasurer (1968-1969), Vice-President (1973-1994), Honorary Vice-President (since 1994); Board of Directors, African Law Association in America (1970-1973), Member, Council on Foreign Relations (1978); American Society of International Law (ASIL), Member, Executive Council (1979-1994), President (1998-2000); Member, the Century Association of New York (1979-1998); Advisory Board, International Human Rights Law Group, Board of Directors, Friends of the Hague Academy of International Law, Inc. (since 1980); Member of the NYU Society of Fellows (since 1984), Member, Administrative Council, the Jacob Blaustein Institute for the Advancement of Human Rights (1988-1994); Board Member, Africa Watch (1989); Board of Directors, International Peace Academy (1991); Member, German Société française de droit international; Member, Canadian Council on International Law; United States Member, Committee on International Human Rights Law and Practice, International Law Association (1995-2000).

Member, Editorial Board (1972-1984) (1996) and Editor-in-Chief (1984-1993) of *The American Journal of International Law*; Member, Board of advisers, *European Journal of International Law* (Florence, Italy) (1988); Member, Board of advisers, *Austrian Review of International and European Law* (1996); Member, Board of advisers, *Transnational Publishers* (1996).

Christopher Medal, for *Resignation in Protest* (1976); Certificate of Merit, awarded by the American Society of International Law, in Recognition of *United States Foreign Relations Law: Documents and Sources* (1981); Certificate of Merit, awarded by the American Society of International Law, in Recognition of *Nation against Nation: What Happened to the U.N. Dream and What the U.S. Can Do about It* (1986); Certificate of Merit, awarded by the American Society of International Law, in Recognition of *Political Questions/Judicial Answers: Does the Rule of Law Apply to Foreign Affairs?* (1994); Elected Member, Institut de droit international (1993); John E. Read Medal, awarded by the

anadian Council on International Law, for distinction in the study and
dvancement of international law (1994); Guggenheim Fellowship
1973-1974) (1982-1983); 1999 Wolfgang Friedmann Memorial Award,
iven by the *Columbia Journal of Transnational Law* (1999), for outstand-
ng contributions to the field of international law.

Author of: *Race and Nationalism*, 1960-1961; *The Role of the United*
ations in the Congo (co-author), 1963; *African Law* (co-author), 1963;
ast African Unity through Law, 1964; *Comparative Constitutional*
rocess. Cases and Materials in the Comparative Constitutional Process
f Nation Building, 1968; *A Free Trade Association* (co-editor), 1968; *Why*
ederations Fail (*et al.*), 1968; *World Politics. Verbal Strategy among the*
uperpowers (co-author), 1971; *Secrecy and Foreign Policy* (co-author),
974; *Resignation in Protest: Political and Ethical Choices between Loyalty*
Team and Loyalty to Conscience in American Public Life (co-author),
975; *Control of Sea Resources by Semi-Autonomous States: Prevailing*
egal Relationships between Metropolitan Governments and Their Overseas
ommonwealths, Associated States, and Self-Governing Dependencies,
978; *Foreign Policy by Congress* (co-author), 1979; *United States Foreign*
elations Law: Documents and Sources (co-author), 1980-1981; *The*
ethered Presidency, 1981; *Human Rights in Third World Perspective*,
ols. I-III, 1982; *United States Foreign Relations Law: Documents and*
ources, Vols. IV-V (co-author), 1984; *Nation against Nation: What*
appened to the U.N. Dream and What the U.S. Can Do about It, 1985;
udging the World Court, 1986; *Foreign Relations and National Security*
aw (co-author), 1987; *The Power of Legitimacy among Nations*, 1990;
olitical Questions Judicial Answers: Does the Rule of Law Apply
Foreign Affairs?, 1992; *Foreign Relations and National Security Law*,
nd ed. (co-author), 1993; "Fairness in the International Legal and
stitutional System", *Recueil des cours*, Hague Academy of International
aw, Vol. 240, 1993; *Fairness in International Law and Institutions*, 1995;
ternational Law Decisions in National Courts (co-editor), 1996; *The*
mpowered Self: Law and Society in the Age of Individualism, 1999;
elegating State Powers: the Effect of Treaty Regimes on Democracy and
overeignty (ed.), 2000.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

udge *ad hoc* in the case concerning *Maritime Delimitation and Territorial*
Questions between Qatar and Bahrain (*Qatar* v. *Bahrain*))

Born in Vigo, Spain, on 18 November 1929.
Licenciado (1952) and Doctor of Law (1959) of the University of
lladolid, Spain. *Diplomé d'études supérieures européennes* (1955) and
ctor of Law (1957) of the University of Saar, Germany. Doctor *Hon-*
Causa of Law (1993) of the University of Alcalá de Henares, Spain.
Member of the Madrid Bar Association. Legal consultant and counsel

or advocate in international cases. Arbitrator in the International Centre for Settlement of Investment Disputes (ICSID).

Member of the Permanent Court of Arbitration; Member of the International Humanitarian Fact-Finding Commission; Member of the Institute of International Law; Second Vice-President, Vancouver (2001); Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international; Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law.

Judge *ad hoc* in the International Court of Justice in the cases concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1989-1992), *Fisheries Jurisdiction (Spain* v. *Canada)* (1995-1998) and *Legality of Use of Force (Yugoslavia* v. *Spain)* (1999).

Former Registrar of the International Court of Justice (1980-1986). Former Member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly, International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *A propos de l'interprétation et de la revision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia*, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 20 avril 1957", in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64-I, 1991; "Succession d'Etats", in Unesco, *Droit international. Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacio-*

ales: Comentarios y observaciones sobre la Declaración de los Miembros lel Consejo de Seguridad de 31 de enero de 1992, 1993; "Spain and the urisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain f the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United Nations Decade of International Law), 1995; "La función de la Corte nternacional de Justicia en el sistema de la Carta de las Naciones Unidas", *Proceedings of the United Nations Congress on Public nternational Law, New York (March 1995)*, 1996; "L'intervention dans a procédure de la Cour internationale de Justice", Hague Academy f International Law, *Recueil des cours*, Vol 256 (1995); *La Corte nternacional de Justicia en el sistema de la Carta en el cincuenta aniversario e las Naciones Unidas*, Universidad Carlos III, Madrid, 1996; "The New heory of 'Indispensable Parties' under the Statute of the International ourt of Justice", *Essays in Honour of Eric Suy*, 1998; "Interpretation f Treaties by the International Court of Justice Following the Adoption f the 1969 Vienna Convention on the Law of Treaties", *Liber Amicorum Professor Seidl-Hohenveldern*, 1998; "La fonction de la Cour internationale de Justice: tendances actuelles du règlement judiciaire", in *Liber Amicorum Mohammed Bedjaoui*, 1999; "Are Prior Negotiations a General Condition for Judicial Settlement by the International Court of ustice?", in *Liber Amicorum in Memoriam of Judge José María Ruda*, 000.

Awarded the Spanish Great Cross of Civil Merit (1987) and other oreign decorations (all after 1987).

Judge *ad hoc* Jean J. A. SALMON

(Judge *ad hoc* in the case concerning
Armed Activities on the Territory of the Congo
(Democratic Republic of the Congo v. Burundi))

Born on 4 March 1931 in Ixelles, Belgium.

Doctorate of law from the Université libre de Bruxelles (1954); doctorate of law from the University of Paris, department of public international law (1957). Doctor *honoris causa* of the University of Reims 1978).

Deputy legal counsel to the United Nations Relief and Works Agency or Palestine Refugees (UNRWA) (1958-1961).

Responsible (as lecturer from 1961 to 1963, as professeur extraordinaire om 1963 to 1967 and as professeur ordinaire until 30 September 1996) r the following courses at the Université libre de Bruxelles: diplomatic.

consular and international functions; specific questions of public international law; questions of public law and law of nations relating to new States (until 1970); procedure before international courts and jurisprudence of these courts (until 1970); acted as substitute for Mr. Chaumont's courses during the 1969-1970, 1970-1971 and 1971-1972 academic years; responsible for courses on public international law (including the United Nations) and international responsibility since 1971; responsible (with His Excellency Alfred Cahen) for the induction seminar for diplomatic and international staff (from 1981 to 1997). Course director for the Licence spéciale en droit international (1984-1997).

Emeritus Professor since 1 October 1997.

Secretary of the Institut d'études européennes of the Université libre de Bruxelles (1963-1967).

Director of the Centre de droit international of the Institut de sociologie Solvay (1963-1997). The Centre has been attached to the Law Faculty since 1995. President of the Centre (since 1997).

Dean of the Law Faculty (1977-1980); member of the University's Governing Council (1977-1980 and 1982-1985).

Courses and lectures for: Institut des hautes études internationales de Paris (1964, 1972 and 1986), Université Lovanium de Kinshasa (1966), Institut des hautes études internationales in Geneva (1966 and 1970), Cambridge (1972), University of Georgia students (1973-1977), Institut d'études européennes, Ecole nationale d'administration de Nouakchott (1976), Law Faculty, Rheims (1978), Hague Academy of International Law (1982), Moscow's Lumumba University (1984), Law Faculties in Beijing (1985), Dubrovnik (1985), Bujumbura (1988), Hanoi (1993), Birzeit and Saarbrücken (1996), Beirut, Damascus, Birzeit (1997). Visiting Professor at the UHEI in Geneva (winter semester 1998-1999).

Director of Studies of the French-language section of the Centre for Studies and Research in International Law and International Relations of the Hague Academy of International Law for 1967; responsible for seminars in French and English under the UN/UNITAR International Law Fellows Programme, The Hague, from 1969 to 1974.

Member of the jury d'agrégation de droit public (selection panel for public law teaching staff) of the Algerian Republic in 1972. Member (from 1983) and President (from 1992) of the Commission interuniversitaire d'équivalence (interuniversity equivalence committee), law section, of the Ministry of Education and French Culture, until this committee became defunct in 1995.

Secretary of the Association "Les Amis d'Henri Rolin" (since 1974).

Member of the legal section of the Centre national de recherches de logique (from 1962 to 1989) and the study group on international organization of the Carnegie Foundation's European Centre (from 1964 to 1975).

Drafting secretary at the Institute of International Law at the sessions held in Grenada (1956), Amsterdam (1957), Neuchâtel (1959), Salzburg (1961), Brussels (1963) and Warsaw (1965); associate (1967 to 1979) and member of the Institute (since 1979); third vice-president and member of the Bureau (1995-1997).

Director of the *Revue belge de droit international* (since 1964).

Legal secretary with the Brussels Maritime Conference on the liability of operators of nuclear vessels (May, 1962); consultant to the Secretariat of the International Atomic Energy Agency in Vienna during the Diplomatic Conference on civil liability for nuclear damage (April-May, 1963). Consultancy work for Unesco (1983 and 1985). Consultancy work for the EEC (on environmental and fisheries matters). Consultancy work for the United Nations Secretary-General (1991). Member of the European Commission's panel of experts on public international law (since 1983).

Expert representing the Belgian Government on the Council of Europe's Committee of Experts concerning the publication of the digests of States' practice with regard to public international law and of the digest concerning the harmonization of the procedures for inputting legal data into computers. Legal consultancy work for the Belgian Ministry of Foreign Affairs.

Member of the Permanent Court of Arbitration, appointed by Belgium (since 1977); member of the panel of experts of the CSCE's Conflict Prevention Centre, appointed by Belgium (since 1991).

Consultant for various Governments, particularly with regard to boundary problems (India, Iran, Mauritania, Mali, Qatar, Viet Nam, etc.) and diplomatic law and for various companies with regard to nationalization.

Counsel for the Mauritanian Government in the *Western Sahara* case, International Court of Justice (1975); counsel for the Malian Government in the *Frontier Dispute* case before a chamber of the International Court of Justice (1984-1985); counsel for the Libyan Government in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)*, International Court of Justice (1992 and 1998); counsel for the Government of Qatar in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, International Court of Justice (1994-1995); counsel for the Government of the Solomon Islands in the cases concerning *Legality of the Threat or Use of Nuclear Weapons* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (requests for advisory opinions submitted by the WHO and the United Nations General Assembly, International Court of Justice (1994-1995)).

President of the Burundi Libya Arbitral Tribunal in the *Lafico v. Burundi* case (1990-1991). Arbitrator appointed by the Ministry of Economic Affairs in the case concerning *Belgium v. European Patent Office* (1995-1997).

Author of numerous publications on international law.

Judge *ad hoc* Mohamed SHAHABUDDEEN

(Judge *ad hoc* in the case concerning
Sovereignty over Pulau Ligitan and Pulau Sipadan
(Indonesia/Malaysia))

Born in Vreed-en-Hoop, Demerara, Guyana, on 7 October 1931.

Bar Finals, London Inns of Court (1952). Called to the Bar, Middle Temple, London (1954). Queen's Counsel (1966). London University degrees: LL.B., B.Sc. (Econ.), LL.M., Ph.D., LL.D. Also LL.D. *honoris causa* of the University of the West Indies.

Private practice (1954-1959) followed by public legal service. Magistrate (1959). Crown Counsel (1959-1962). Solicitor General (1962-1973). Attorney General (1973-1987). Minister of Justice (1978-1987). Other ministerial appointments, including Acting Foreign Minister from time to time (1980-1987).

Member of various Guyana delegations on bilateral missions to other countries (1962-1987). Also member of various Guyana delegations to other international meetings, including: United Nations General Assembly (1972); United Nations Conference on Succession of States in respect of Treaties, Vienna (1977); Commonwealth Heads of Government Meetings, Lusaka (1979), Melbourne (1981), New Delhi (1983), Nassau (1985) and Vancouver (1987); the Cancun North South Summit (1981); the General Assembly of the Organization of American States, St. Lucia (1981); Meetings of Ministers of Foreign Affairs of Non-Aligned Countries, Georgetown (1972) and New Delhi (1981); Meeting of the Co-ordinating Bureau of the Movement of Non-Aligned Countries, Algiers (1981); the Conference of Heads of State or Government of Non-Aligned Countries, New Delhi (1983); the Commonwealth Caribbean Heads of Government Meetings, Ocho Rios (1982), Port of Spain (1983), Nassau (1984), Georgetown (1986) and St. Lucia (1987); the Commonwealth Law Ministers Meetings at Lagos (1975), Barbados (1980), Sri Lanka (1983) and Harare (1986); and the Commonwealth Law Conference, Hong Kong (1983).

Member of the Board of Governors of the University of Guyana (1963-1965). Member of the Council of Legal Education of the Commonwealth Caribbean (1973-1987).

Member of the Commonwealth Association of Legislative Counsel (1983).

Member of the International Court of Justice from 6 February 1988 to 5 February 1997; Judge *ad hoc* in the case concerning *Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*.

Member (as from 16 June 1997) and Vice-President (1997-1999) of the International Criminal Tribunal for the Former Yugoslavia.

Member of the Institute of International Law (First Vice-President (August 1999-August 2001)). Headquarters Member of the International Law Association. Member of the Société française pour le droit inter-

national. Honorary Member of the American Society of International
Law. Honorary Life Member of the Indian Society of International
Law. Member of the Advisory Board of the African Society of Interna-
tional and Comparative Law. Associate Member of the International
Academy of Comparative Law. Member of the Advisory Board, *Euro-*
pean Journal of International Law. Member of the Board of Electors
of the Whewell Professorship of International Law of Cambridge
University.

Cacique's Crown of Honour (CCH) (1970); Order of Roraima (OR)
(1980); Order of Excellence (OE) (1988).

Author of various books and articles.

Judge *ad hoc* Ahmed Sadek El-Kosheri

Judge *ad hoc* in the cases concerning *Questions of Interpretation and*
Application of the 1971 Montreal Convention arising from the Aerial
ncident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)* and
Questions of Interpretation and Application of the 1971 Montreal Con-
ention arising from the Aerial Incident at Lockerbie (Libyan Arab Jama-
hiriya v. *United States of America)*)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musul-
man (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956),
Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de
Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philo-
ophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes Uni-
ersity.

Faculty Member of the Law School, Ain Shams University, Cairo
(1958-1974). Visiting Professor, Beirut Arab University (1963-1964)
nd Nanterre University (Paris X) (1987-1988). Professor of Interna-
onal Economic Law and President of Senghor University, Alex-
ndria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Legal Adviser of
e Ministry of Oil and Finance, Kuwait (1968-1969). Founding General
ounsel of the Arab Fund for Economic and Social Development,
uwait (1973-1974). Secretary-General of the Islamic Development
ank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council
r International Commercial Arbitration (ICCA). Vice-President of the
uro-Arab Arbitration System. Member of the Scientific Council of the
ternational Business Law Institute, International Chamber of Com-
erce, Paris. Vice-President of the ICC Court of Arbitration. Judge at
e Administrative Tribunal of the African Development Bank. Member
the ICSID Panel of Arbitrators and Conciliators.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Ian BROWNLIE

(Judge *ad hoc* in the case concerning *Certain Property (Liechtenstein* v. *Germany)*)

Born on 19 September 1932.

CBE (Commander of the Order of the British Empire) for services to International Law, Queen's Birthday Honours (1993).

DCL (Oxon) 1976.

Chichele Professor of Public International Law, University of Oxford (1980-1999) (Emeritus Professor, 1999); Joint Editor, *British Year Book of International Law* (1973); Senior Editor (1982-2000); Chairman of Editorial Committee (since 2000); General Editor, *Oxford Monographs on International Law*; Associate (1977-1985) and Member (since 1985) of the Institute of International Law; Fellow of the British Academy (since 1979); Fellow of All Souls College, Oxford (1980-1999) (emeritus since 1999); Director of Studies, International Law Association (1982-1991) and Member, Executive Council, International Law Association (since 1991); Member, Council of Management, British Institute of International Law (since 1983); Delegate, University Press, Oxford (1984-1994); Member of the Finance Committee, University Press (1984-1994); Professorial Distinction Award, Oxford University (1989); Chairman of the Disciplinary Court, University of Oxford (1989-1999).

Called to the Bar of Gray's Inn (1958); Queen's Counsel (substantive, not honorary) (1979); Bencher of Gray's Inn (1988).

Member of the International Law Commission (since 1996).

Various appointments as arbitrator, including: party-appointed Arbirator in *Wintershall AG et al.* v. *Government of Qatar* Arbitration (1986-1988); President in *Occidental of Pakistan, Inc.* v. *Islamic Republic of Pakistan* (1988-1989); party-appointed Arbitrator in *Scimitar Exploration, Ltd.* v. *People's Republic of Bangladesh* (1993-1994); party-appointed Arbitrator in *Saipem S.P.A.* v. *Bangladesh Oil Gas and Mineral Corporation* (since 1994); party-appointed Arbitrator in *Indus Pipeline Limited* v. *Islamic Republic of Pakistan* (1998); President in *Compagnie Minière Internationale Or* v. *Republic of Peru* (2000-2001); Member of Panel of Arbitrators and Panel of Conciliators, International Centre for the Settlement of Investment Disputes (of the World Bank); Judge (since 1995) and Elected President (1996) of the European Nuclear Energy Tribunal.

Counsel in the following international arbitrations: *Beagle Channel* case *(Argentina/Chile)* (1974-1977); *Stichting Greenpeace Council* v. *French State* (1986-1987) (*Rainbow Warrior* compensation); *Case*

Concerning Red Sea Islands (*Eritrea/Yemen*) (1996-1999); *Eritrea-Ethiopia Boundary Commission* (since 2000).

Counsel in the following cases before the International Court of Justice: *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (*Canada/United States of America*); *Continental Shelf* (*Libyan Arab Jamahiriya/Malta*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*); *Border and Transborder Armed Actions* (*Nicaragua* v. *Honduras*); *Certain Phosphate Lands in Nauru* (*Nauru* v. *Australia*); *Maritime Delimitation in the Area between Greenland and Jan Mayen* (*Denmark* v. *Norway*); *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras: Nicaragua intervening*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) (*Libyan Arab Jamahiriya* v. *United States of America*); *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia*); *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*); *Kasikili/Sedudu Island* (*Botswana/Namibia*); *Request for Interpretation of the Judgment of 11 June 1998 in the case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (*Nigeria* v. *Cameroon*); *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *United Kingdom*); *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Uganda*); *Aerial Incident of 10 August 1999* (*Pakistan* v. *India*).

Counsel for Chile in the *Mediation by His Holiness the Pope concerning the Southern Region* (*Argentina/Chile*) (1979-1985).

Head of Botswana Delegation and Co-Chairman, Joint Team of Technical Experts on the Boundary between Botswana and Namibia 1992-1995).

Counsel in the following cases before the European Commission on Human Rights: *Application 8007/77* (*Cyprus* v. *Turkey*) (Admissibility, 1978) (Merits, 1983); *Application 25781/94* (*Cyprus* v. *Turkey*) Admissibility, 1996) (Merits, 1996); various Applications on behalf of ndividuals, including leading cases on jurisdiction and admissibility (e.g. *Metropolitan Chrysostomos, Bishop of Kitium* v. *Turkey; Loizidou* v. *Turkey*).

Counsel in the following cases before the European Court of Human Rights: *Loizidou* v. *Turkey* (Preliminary Objections, 1994) (Merits, 995-1996) (Article 50, 1996); *Application 25781/94* (*Cyprus* v. *Turkey*).

Counsel in the following cases before the European Communities: *ommission* v. *IBM* (1982-1984); *Polypropylene* case (1984).

Counsel in several cases before the Iran-United States Claims Tribunal, ncluding *Case A/28* (*United States of America* v. *Iran*) (1999).

International legal expert for the *Lesotho Highlands Water Project* (1983-1987); legal work for at least 35 States.

Order of Bernardo O'Higgins of the Republic of Chile (1986) (for services concerning arbitration and mediation); Commander of the Order of Merit of the Norwegian Crown (1993) (for services in the International Court of Justice).

Principal publications: *International Law and the Use of Force by States*, 1963; *Principles of Public International Law*, 1st ed., 1966, 3rd ed., 1979 (five reprints), 4th ed., 1990 (eight reprints), 5th ed., 1998, Russian edition of the second edition, 1977, Japanese edition of the third edition, 1989, Portuguese edition of the fourth edition, 1998, Chinese edition in preparation (the second edition of this work received the award of the Certificate of Merit of the American Society of International Law in 1976); *African Boundaries: A Legal and Diplomatic Encyclopedia*, 1979; *System of the Law of Nations: State Responsibility*, Part I, 1983; *Basic Documents in International Law*, 1st ed., 1967, 4th ed., 1995; *Basic Documents on Human Rights*, 1st ed., 1971, 2nd ed., 1981, 3rd ed., 1992; *The Rule of Law in International Affairs*, 1998.

Invited to give the General Course of lectures on Public International Law at the Hague Academy of International Law in 1995 (in celebration of the fiftieth anniversary of the United Nations). Rapporteur of the Institute of International Law on the topic "Jurisdictional Immunities of States", 1982-1991. Life Member and Counsellor of the American Society of International Law.

Judge *ad hoc* Prince Bola Adesumbo AJIBOLA

(Judge *ad hoc* in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*)

Born to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; LL.D. (*honoris causa*) of the University of Buckingham (Chancellor the Rt. Hon. Baroness Margaret Thatcher) (1996).

Legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria (1974-1999), President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar

(1985-1991); Chairman of the General Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Chairman of the Body of Benchers (1990-1991); Member of the Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990); Chairman, Council of Legal Education (1998-1999).

Leader of the Nigerian Delegation to the United States of America to initial an Executive Agreement on Procedure for Mutual Assistance on Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters with the United Kingdom (1989); of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989); and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); Temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the International Court of Justice from 5 December 1991 to 5 February 1994. Judge *ad hoc* in the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*.

Member of the World Bank Administrative Tribunal. Member of the Constitutional Court of the Federation of Bosnia and Herzegovina (1995-2001); Member of the United Nations Compensation Commission (1994-2000).

Member of the Permanent Court of Arbitration (The Hague), of its Steering Committee and of the Board of Trustees of its Financial Assistance Fund. Member of the International Chamber of Commerce Court of Arbitration, Paris (1976-2000); Member of the International Maritime Arbitration Commission, Paris; Member of the Board of the London Court of International Arbitration; President of the Pan-African Council of the London Court of International Arbitration (1994-1999). Member of the Court of Arbitration for Sport: CAS *Ad Hoc* Division for the Commonwealth Games in Kuala Lumpur (1998); Olympic Games in Sydney (2000).

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the

Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990); leader of the Nigerian Delegation to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat, London (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991). President of the World Association of Judges. Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce (1976-1980); Vice-President of the Institute of International Business Law and Practice, Paris (1980-1986); represented Africa in the demonstration trial on the law of the sea at the World Peace through Law Conference (Manila, 1977). Fellow of the Chartered Institute of Arbitrators. Fellow of the Nigerian Institute of Advanced Legal Studies. Friend of the Institute of Advanced Legal Studies, London. Honorary Vice-President of the Association of Arbitrators (South Africa).

Member of the Governing Board of the International Maritime Law Institute of the International Maritime Organization (IMO). Member of the Board of Directors of the International Development Law Institute, Rome.

President and Founder of "African Concern" (a non-political, non-religious, non-profit-making, non-governmental organization), Lusaka, Zambia (1995). President and Founder of "Islamic Movement for Africa" (IMA).

Editor, Nigeria's *Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises — Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to*

Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1992. Gave a series of lectures on human rights in Accra, Ghana, under the auspices of the Ghana Bar Association, entitled: "Human Rights Agenda for a Stable 21st Century". Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law at Seoul); Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire; Patron of the Nigerian Society of International Law; Honorary Bencher of the Honourable Society of Lincoln's Inn, London.

Judge *ad hoc* YVES L. FORTIER

(Judge *ad hoc* in the case concerning
*Maritime Delimitation and Territorial Questions
between Qatar and Bahrain (Qatar* v. *Bahrain)*)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *summa cum laude* of the University of Montreal (1955), Bachelor of Civil Law, McGill University (1958), and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992), the University of British Columbia (1993) and the University of Montreal (1998).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984), elevated to the level of Companion in the Order (1991). Awarded the Medaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1993).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels.

Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration, the American Arbitration Association, the Chamber of Commerce of Zurich and the International Centre for the Settlement of Investment Disputes (ICSID).

Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (1984).

Since being called to the Bar, has served as Counsel to many Royal

Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (1993-1998). Special Negotiator of the Government of Quebec to the Cree Nation (1993). Appointed by the Security Council of the United Nations as Chairman of Panel C of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993) and of Panel E F (1999). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995). Secretary-General's Special Envoy to Malaysia (1997). Member of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1998). Member of the Board of the International Accounting Standards Committee (since May 2000).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Director of the Royal Bank of Canada, Hudson's Bay Company, Nortel Networks Corporation, Nova Chemicals Corporation and DuPont Canada Inc. Former Governor of McGill University and former administrator of the Institut neurologique de Montréal and of the Institut de recherches cliniques de Montréal. Director or governor of several non-profit organizations including the Council for Canadian Unity, the C. D. Howe Institute, the Canadian Foundation for AIDS research (CANFAR) and the Canadian Institute for Advanced Legal Studies. One of the Founding Directors of the Canadian Bar Association Law for the Future Fund and Honorary Patron of the International Centre for Human Rights and Democratic Development. Director of the International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations (1989).

Member of numerous professional organizations, including the Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents, 1992-1996) and the American Society of International Law.

During past years, has concentrated activities in the field of international arbitration. President of the London Court of International Arbitration (since 1998). Member of numerous institutions for inter-ational arbitration. Member of the CPR International Panel of istinguished Neutrals, the Quebec National and International ommercial Arbitration Centre (Chairman, Committee of Experts), the ritish Columbia International Commercial Arbitration Centre (member, anel of Arbitrators), the International Council for Commercial rbitration (ICCA), the Court of Arbitration for Sport (CAS), the Legal ervice and Research Centre (LSRC), and the International Arbitration lub (London).

Member of the Permanent Court of Arbitration (1984-1989). Legal dviser to the Commission on Civil Governance in Geneva (1992-1995). lember of the Trilateral Commission (member of the North American xecutive Committee (since 1993)).

Judge *ad hoc* Christopher J. R. Dugard

udge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Rwanda)*.

Born in Fort Beaufort, South Africa, on 23 August 1936.

B.A. (1956) and LL.B. (1958), University of Stellenbosch; LL.B. 965), Diploma in International Law (1965) and LL.D. (1980), Cantab.; L.D. (*honoris causa*) of the Universities of Natal (1990) and of Cape own (1996).

Lecturer in Law, University of Natal, Durban (1961-1963). Senior ecturer in Law (1965-1969); Professor of Law (1969-1998); Chairman the Governing Committee of the School of Law (1972-1974, 1978); ean of the Faculty of Law (1975-1977); Director of the Centre for pplied Legal Studies (1978-1990) and Professor Emeritus (since 1998) the University of the Witwatersrand. Professor, honorary, University Pretoria (since 2000).

Tutor in Roman Dutch Law, University of Cambridge (1964-1965); isiting Professor of Public and International Affairs, Woodrow Wilson chool of Public and International Affairs, University of Princeton aught course in Comparative Civil Rights) (1969); Visiting Professor Law, Duke University (taught courses in Jurisprudence, International nd Criminal Law) (1974-1975); Visiting Professor of Law, University California, Berkeley (Boalt Hall) (taught course in International rotection of Human Rights) (1981); Visiting Fellow, Research Centre r International Law, University of Cambridge (1985); Visiting rofessor of Law, University of Pennsylvania (taught courses in ternational Law and International Human Rights Law) (1989); Visiting rofessor of Law, University of New South Wales, Australia (taught urse in International Law) (1991); Arthur Goodhart visiting Professor Legal Science, University of Cambridge (taught LL.M. course in ternational Criminal Law) (1995-1996); Fellow, Sidney Sussex College, ambridge (1995-1997); Director, Lauterpacht Research Centre for

International Law, University of Cambridge (1995-1997); and Professor of Public International Law, University of Leiden (since 1998).

Admitted as an advocate of the Supreme Court of South Africa (1959); practised at the Durban Bar (1961-1963); part-time consultant and advocate, principally in the fields of international law, human rights and constitutional law (since 1963); appointed Senior Counsel (since 1998).

President of the South African Institute of Race Relations (1978-1980); Member of National Administrative Committee of the South African Institute of International Affairs (1987-1997); Founder and Member of the National Council of Lawyers for Human Rights (1980-1991); Commissioner of the Human Rights Commission (1988-1989); Board Member of the Independent Board of Inquiry (1990-1994); Chancellor to Bishop Tutu, Diocese of Johannesburg (Anglican) (1985-1987); Member of the Council of the University of Fort Hare (1990-1998); Member of the Technical Committee for Investigating the Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation (part of negotiations for Interim Constitution) (1993); Member of the Technical Committee to advise the Constitutional Assembly on the Drafting of a Bill of Rights for the 1996 Constitution (1995).

Member of the Study Committee on International Protection of Human Rights of the American Society of International Law (1973-1975); Member of the Committee on International Terrorism, International Law Association (1974-1984); Member of the Committee on Extradition and International Terrorism (1985-1988); Co-Rapporteur to the Committee on Extradition and Human Rights (1992-1998); President of the South African Branch of the International Law Association (1993-1995, 1998); Member of the Governing Body of the African Society of International and Comparative Law (since 1995); Member of Institut de droit international (since 1999); Member of the International Law Commission (since 1996); Rapporteur and Member of the Bureau (1997-1998); Special Rapporteur on Diplomatic Protection (since 1999); Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law of the International Committee of the Red Cross (1997); Chairman of the Inquiry Commission established by the Commission on Human Rights to investigate violations of Human Rights and Humanitarian Law in the Occupied Palestinian Territories (2000-2001); Special Rapporteur to the Commission on Human Rights on the situation of Human Rights in the Occupied Palestinian Territories (2001).

Observer on behalf of Amnesty International in the case of the "Charlotte Three" (trial of three black political activists), North Carolina (1974); a case involving the extradition of a confession from a member of the IRA held in solitary confinement, Belfast (*R v. Culbert*) (1981); the trial of Orton and Vera Chirwa in Malawi (1983); Consultant to Friends Legal Service on future of the Quaker legal aid office in East Jerusalem (1992).

laude Harris Leon Foundation and Percy Cox Foundation
mmunity Relations Award (1991); Distinguished Researcher Award,
versity of the Witwatersrand (1995).

elivered Third Manfred Lachs Memorial Lecture, Peace Palace,
Hague, 15 April 1999, on "Dealing with Crimes of a Past Regime:
amnesty Still an Option?" (1999).

uthor of numerous books and articles on international law.

Judge *ad hoc* Budislav VUKAS

dge ad hoc in the case concerning Application of the Convention on the
Prevention and Punishment of the Crime of Genocide
(*Croatia* v. *Yugoslavia*)

orn in Rijeka-Sušak, Croatia, on 1 January 1938.

LL.B. (1961), LL.M. (1965), Doctor of Law (International Law)
74), Faculty of Law, University of Zagreb; attended courses at the
ue Academy of International Law (1961 and 1968-1970); participated
he Centre of the Academy for Studies and Research (International
and International Relations) (1967).

rofessor of Public International Law, Faculty of Law, University of
reb (Assistant 1963-1970, Lecturer 1970-1974, Assistant Professor
4-1977, Professor since 1977); lectured at the Universities of
rade, Bologna, Boston, Brest, Maribor, Milan, Osijek, Paris, Parma,
ka, Rome, Split, Thessaloniki, Tilburg and Valletta; directs a course
he law of the sea at the Dubrovnik Inter-University Centre (since
4); delivered a course on "States, Peoples and Minorities" at the
ue Academy of International Law (1992); delivered courses at the
des Academy of Oceans Law and Policy (1999, 2000 and 2001);
sultant for UNEP, Nairobi (1981 and 1991) and its Co-ordinating
t for the Mediterranean Action Plan, Athens (1985 and 1990); parti-
ted in: Third United Nations Conference on the Law of the Sea
5-1982); Preparatory Commission for the International Seabed
hority and for the International Tribunal for the Law of the Sea
4-1990 and 1994); International Seabed Authority (1994-1996);
ting of the States Parties to the United Nations Convention on the
of the Sea (1994-1996); the Sixth Committee of the United Nations
eral Assembly (1990, 1991, 1995); Working Group on the United
ons Decade of International Law of the Sixth Committee of the
ed Nations General Assembly (chairman 1990); CSCE Conference
he Human Dimension, Copenhagen Meeting (1990); CSCE Meeting
xperts on National Minorities, Geneva (1991); World Conference
Human Rights, Vienna (1993); 26th International Conference of the
Cross and Red Crescent (1995).

ember of the Permanent Court of Arbitration (1989-1991 and since
); the International Tribunal for the Law of the Sea (since 1996).

the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organisation (since 1985); the Commission of Inquiry formed under Article 26 of the Constitution of the International Labour Organisation to examine the observance by Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (1989-1991); the Court of Conciliation and Arbitration within the OSCE (since 1995); and the European Commission for Democracy through Law (1990-1991).

Associate Member (1991-1997) and Member (since 1997) of the Institut de droit international. Member of the Croatian Society of International Law (since 1961); the Société française pour le droit international (since 1978); the International Council of Environmental Law, Bonn (since 1978), regional governor (since 2000); the Scientific Council of the European Institute for Marine Studies, Brest, France (since 1997); and the Scientific Council of the Institut de droit économique de la mer, Monaco (since 2000).

Author of numerous books, monographs, articles and papers in various fields of public international law, in particular law of the sea, international environmental law, international protection of human rights and national minorities, including *The Relativity of Treaties* (in Croatian), 1975; *Ethnic Minorities and International Relations* (in Croatian), 1978; *The New Law of the Sea* (ed., in Croatian), 1982; *Essays on the New Law of the Sea*, Vols. I-III (ed.), 1985-1996; *The Legal Regime of Enclosed or Semi-Enclosed Seas: The Particular Case of the Mediterranean* (ed.), 1988; *International Law*, Vol. I (with J. Andrassy and B. Bakotić, in Croatian), 1995.

Judge *ad hoc* Giorgio GAJA

(Judge *ad hoc* in the case concerning *Legality of Use of Force (Yugoslavia v. Italy)*)

Born in Lucerne, Switzerland, on 7 December 1939. Italian nationality.

Master's degree in law, University of Rome (1960). *Libera docenza* in international law (1968). Honorary Doctor of Law, Dickinson Law School (1985).

Professor of International Law University of Florence (since 1974). Dean of the Law Faculty (1978-1981).

Lecturer, Hague Academy of International Law (1981). Part-time Professor, European University Institute (1980 and 1984-1985). Visiting Professor, Johns Hopkins University (1977-1978), University of Geneva (1983 and 1985), University of Paris I (1989 and 2000), University of Aix-Marseille III (1992), Graduate Institute of International Studies, University of Michigan School of Law (1992), and Columbia Law School (1996).

Member of the International Law Commission (since 1999). Delegate

he Italian Government to the Vienna Conference on the Law of
aties between States and International Organizations and between
rnational Organizations (1986). Counsel to the Italian Government
he *ELSI* case before the International Court of Justice.

lember of the Institut de droit international. Director of the *Rivista*
liritto internazionale. Member of the Management Committee of the
an Yearbook of International Law. Member of the Advisory Board
he *Common Market Law Review*, *European Journal of International*
and *Columbia Journal of European Law*.

rincipal publications: *L'esaurimento dei ricorsi interni nel diritto inter-*
onale, 1967; *La deroga alla giurisdizione italiana*, 1971; *International*
mercial Arbitration. The New York Convention (edited looseleaf
umes), 1978 (updated edition); *Introduzione al diritto comunitario*,
ed., 1990; "River Pollution in International Law", *Hague Academy*
nternational Law Colloquium, The Protection of the Environment and
rnational Law, 1975; "Considerazioni sugli effetti delle sentenze di
ito della Corte internazionale di giustizia", *Comunicazioni e studi*,
XIV, 1975; "Reservations to Treaties and the Newly Independent
es", *Italian Yearbook of International Law*, Vol. I, 1975; "The
opean Community's Participation in the Law of the Sea Convention:
e Incoherencies in a Compromise Solution", *Italian Yearbook of*
rnational Law, Vol. 5, 1980-1981; "Jus Cogens beyond the Vienna
vention", Hague Academy of International Law, *Recueil des cours*,
172, 1981; "The European Community's Rights and Obligations
er Mixed Agreements", *Mixed Agreements*, 1983; "Effets directs et
procité dans la jurisprudence concernant l'accord entre la
mmunauté européenne et la Suisse", *Annuaire suisse de droit inter-*
onal, Vol. XL, 1984; "Instruments for Legal Integration in the Euro-
Community – A Review" (with P. Hay and R. D. Rotunda),
gration through Law. Europe and the American Federal Experience
Cappelletti, M. Seccombe and J. Weiler, eds.), 1986, Vol. 1.2;
ncipi generali del diritto (diritto internazionale)", *Enciclopedia del*
to, Vol. XXXV, 1986; "Unruly Treaty Reservations", *International*
at the Time of Its Codification. Essays in Honour of Roberto Ago,
, Vol. I; "Italy", *The Effect of Treaties in Domestic Law* (F. G.
bs and S. Roberts, eds.), 1987; "A 'New' Vienna Convention on
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mondial. A propos des rapports entre maintien de la paix et crimes internationaux des Etats”, *Revue générale de droit international public*, 1993; “La Convention européenne des droits de l'homme dans les ordres juridiques des Etats membres de la Communauté européenne”, *Grundrechtsschutz im europäischen Raum*, 1993; “Beyond the Reasons Stated in Judgments”, *Michigan Law Review*, Vol. 92, 1993-1994; “The Protection of Human Rights under the Maastricht Treaty”, *Institutional Dynamics of European Integration. Essays in Honour of Henry G. Schermers*, 1994, Vol. II; “Use of Force Made or Authorized by the United Nations”, *The United Nations at Age Fifty. A Legal Perspective*, 1995; “Some Reflections on the European Community's International Responsibility”, *The Actions for Damages in Community Law*, 1997; “Identifying the Status of General Principles in European Community Law”, *Scritti in onore di Giuseppe Federico Mancini*, 1998, Vol. II; “How Flexible Is Flexibility under the Amsterdam Treaty?”, *Common Market Law Review*, Vol. 35, 1998; “Restraints Imposed by European Community Law on the Treaty-Making Power of the Member States”, *Dealing with Integration*, Vol. 2, 1998; “Does the European Court of Human Rights Use Its Stated Methods of Interpretation?”, *Studi in onore di Francesco Capotorti*, 1999; “Trattati internazionali”, *Digesto delle discipline pubblicistiche*, Vol. XV, 1999; “New Instruments and Institutions for Enhancing the Protection of Human Rights in Europe?”, *The EU and Human Rights*, 1999; “Expulsion of Aliens: Some Old and New Issues in International Law”, *Cursos Euromediterráneos Bancaja de Derecho Internacional*, Vol. III, 1999.

Judge *ad hoc* Joe Verhoeven

(Judge *ad hoc* in the cases concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) (Democratic Republic of the Congo v. Rwanda)*)

Born in Brussels, Belgium, on 12 March 1943.

Doctor of Law (1965) and Agrégé de l'enseignement supérieur (1975).

Ordinary Professor at the Catholic University of Louvain. Professor at the St. Louis University Faculties (Brussels). Law Faculty Course Director for Public International Law and European Community Law (with Mr. Wathelet since 1997); and specialist teaching in these two disciplines.

Member of the Research Council of the Catholic University of Louvain; (President since 1998) of the Commission des sciences juridiques du Fonds national de la recherche scientifique.

Attendance at numerous conferences and teaching abroad (notably Aix-Marseille, Bordeaux, Hitotsubashi University, Institut universitaire des hautes études internationales (Geneva), New York University,

tawa, Paris I, Paris II, University of California (Los Angeles)); Visiting
nolar at Stanford Law School (1998).

Teaching at the Hague Academy of International Law (Private
ernational Law Section) in 1985; invited to give the 2002 general
urse on public international law.

Member of various learned societies (Member-elect of the Council of
French Society for International Law); Member of the editorial board
various law periodicals (including the *Annuaire français de droit*
ernational).

Member of the Permanent Court of Arbitration; expert adviser to the
ntre for the Prevention of Conflict in the Organisation for Security
d Co-operation in Europe (OSCE).

Participated — as counsel or, in one case, as arbitrator — in certain
ernational arbitrations, *ad hoc* or ICC; State's counsel for Iran in
eral cases before the Iran-United States Claims Tribunal; various
nsultative positions.

Member (since 1991) of the Institute of International Law (elected
sociate at Helsinki in 1985).

Winner of the Charles De Trooz prize (1965) (for an essay on Luise
ser), the Henri Rolin prize (1976) (for a work on international
cognition) and the Fondation E. de Laveleye prize 1993-1998 (Royal
ademy of Belgium).

Author of the following monographs: *La reconnaissance internationale*
n la pratique contemporaine; *Les relations publiques internationales*,
78; "Les nullités du droit des gens", Droit international 1, Institut des
utes études internationales de Paris, 1981; "Relations internationales
droit privé en l'absence de reconnaissance d'un Etat, d'un gouverne-
nt ou d'une situation", *Recueil des cours*, Hague Academy of
ernational Law, Vol. 192, 1985; *The Antarctic Environment and*
ernational Law (published in collaboration with Ph. Sands), 1992;
oit de la Communauté européenne, 1996, 2nd ed., 2000; *Public*
ernational Law, 2000; and almost 150 legal articles, commentaries or
ays in various Belgian or foreign publications or collective works
luding: "Contrats entre Etats et ressortissants d'autres Etats", *Le*
trat économique international. Stabilité et évolution, VII^{e} Journées
udes juridiques Jean Dabin, 1975; "L'Etat et l'ordre juridique interna-
nal. Remarques", *RGDIP*, 1978; "Droit international des contrats et
it des gens", *RBDI*, 1978-1979; "La notion d'applicabilité directe du
it international", *RBDI*, 1980; "Sanctions internationales et commu-
utés européennes. A propos de l'affaire des îles Falkland (Malvinas)",
b. dr. europ., 1984; "Sur les conflits de lois en droit des gens", *Journal*
droit international, 1984; "Le droit, le juge et la violence. Les arrêts
aragua v. United States", *Rev. gén. dr. int. public*, 1987; "Sur la
estine en droit international privé, note sous AG Neumünster", *Revue*
ique de droit international privé, 1988; "Etats alliés ou Nations Unies.
ONU face au conflit entre l'Irak et le Koweït", *AFDI*, 1990; "Sur la
upération à l'étranger des sommes détournées par d'anciens chefs

d'Etat", *Mélanges Lalive, Helbing et Lichtenhahn, Bâle-Francfort*, 1993; "Les citoyens de l'Europe", *Annales de Louvain*, 1993; "Sovereign States: A Collectivity or a Community?", *Hitotsubashi Journal of Law and Politics*, 1994; "La reconnaissance internationale: déclin ou renouveau?", *AFDI*, 1993; "Human Rights, Intervention and Universality", *Hungdah Chiu et al., Proceedings of the International Law Association (ILA): First Asian-Pacific Regional Conference*, 1995; "Les principales étapes de la protection internationale des minorités", *Rev. trim. Dr. H.*, 1997; "L'application ou la prise en considération des directives communautaires en droit belge, note sous Cass., 2 Déc. 1996", *Rev. crit. j. b.*, 1998; "La Communauté européenne et la sanction internationale de la démocratie et des droits de l'homme", *Liber Amicorum Mohammed Bedjaoui*, 1999; "Jus Cogens and Reservation or 'Counter-Reservations' to the Jurisdiction of the International Court of Justice", in K. Wellens (ed.), *International Law: Theory and Practice, Essays in Honour of E. Suy*, 1998; "Mr. Pinochet, la coutume internationale et la compétence universelle, note sous Civ. Bruxelles, 6 Nov. 1998", *JT*, 1999.

Judge *ad hoc* James L. KATEKA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*)

Born on 25 April 1945 in Karagwe District, Tanzania.

Bachelor of Laws Degree with Honours, University College Dar es Salaam of the University of East Africa (1970); Master of Laws (specializing in international law), King's College, University of London (1974).

Career diplomat who joined Tanzania's Ministry of Foreign Affairs in 1970: Third Secretary in the Protocol and Treaties Division (1970-1973); Second Secretary and Head of the Legal Section (1973-1975); First Secretary (1976-1978) and Counsellor (1978-1980) of the Tanzanian Mission to the United Nations in New York; Counsellor and later Minister Plenipotentiary serving as Head of the Treaties Section in the Ministry of Foreign Affairs (1980-1983); Director of the Ministry's Department for Legal Affairs and International Organizations (1983-1989); Ambassador of Tanzania to the Federal Republic of Germany, concurrently accredited to Austria, the Holy See, Poland, Romania and Switzerland (1989-1994); Ambassador of Tanzania to the Russian Federation (1994-1998); Ambassador of Tanzania to Sweden, concurrently accredited to the other Nordic countries of Denmark, Finland, Norway and Iceland and the Baltic Republics of Estonia, Latvia and Lithuania (since 1998).

Attended twelve sessions of the United Nations General Assembly between 1976 and 1988 and in 1996. Served in the Sixth Committee (Legal) and in the First Committee. Attended as a specialist in the law of the sea all sessions of the Third United Nations Conference on the s of the Sea (1973-1982). Attended all sessions of the United Nations paratory Commission for the International Seabed Authority and International Tribunal for the Law of the Sea (1983 and 1993). ticipated in the first session of the Assembly of the International bed Authority in Kingston, Jamaica (1994 and 1995). Attended all ions of the United Nations Committee for the Peaceful Uses of the bed beyond the Limits of National Jurisdiction (this Committee pre-ed for the Third United Nations Conference on the Law of the Sea, l and 1973). Tanzania's delegate to the Stockholm Conference on the nan Environment, which was the first such global conference (1972). ticipated in the London Conference which drafted the Anti-dumping vention (1972). Took part in the IMCO (now IMO) Conference on Marine Pollution Convention (1973). Head of Tanzania's delegation he Diplomatic Conference on Territorial Asylum in Geneva (1977) to the conference which adopted the Vienna Convention on cession of States in respect of Treaties (1978). Took part in the nmonwealth Heads of Government meeting in New Delhi (1983). nded the United Nations conference on Women, in Nairobi (1985). the 25th Session of the Asian African Legal Consultative Committee LCC (which met in Arusha, Tanzania (1985). Tanzania's representa-n the Special Committee on the Charter of the United Nations and he Strengthening of the Role of the Organization; the Special nmittee on Enhancing the Effectiveness of the Principle of Non-Use orce in International Relations, the *ad hoc* committee for the drafting convention against the taking of hostages and the conference which ted the convention; and the *ad hoc* committee on the Indian Ocean zone of peace.

rtner in the law firm of South Law Chambers (Dar es Salaam). Has shed articles and lectured on international law, including on the law e sea and on human rights.

arded the Papal Honour of the Grand Cross with the Star of the r of Pius the Ninth in 1993 by Pope John Paul II. Member of the ed Nations International Law Commission (1997-2001).

Judge *ad hoc* Milenko Kreća

e *ad hoc* in the cases concerning *Application of the Convention on Prevention and Punishment of the Crime of Genocide (Bosnia and govina v. Yugoslavia)* and *Legality of Use of Force (Yugoslavia v. um) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. any) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. United Kingdom)*.

n in Sisak, Croatia, on 19 August 1947.

ceived M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School w, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (1997-2000); President of the Council of the Institute for Comparative Law (1997-2000); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (1998-2000).

Arbitrator of the Permanent Arbitration at the Commercial Chamber of the Republic of Serbia (since 2000); President of the Scientific Council for Legal and Political Sciences at the Belgrade University (since 1999).

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Founder and Editor in Chief of the *Review of EU Legislation* (Belgrade, Institute for International Politics and Economics).

Principal publications: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996; *Sources of International Public Law*, 1979, 1985; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea — Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 70 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992; "A Few Remarks on Theoretical Basis of the New Law of the Sea", *Liber Amicorum Judge Shigeru Oda*.

Judge *ad hoc* Sayeman Bula-Bula

(Judge *ad hoc* in the case concerning *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*)

Born on 31 August 1950 in Ebonda, Congo.

Law graduate, University of Kinshasa (1973); Degree in law from the niversity of Kinshasa (1976); Doctor of Law, University of Louvain 1986); Thesis "Le nouveau droit de la mer dans les Etats de la cote tlantique et Indienne". Holder of various diplomas.

Assistant (1976-1980), Professeur associé (1988-1992), Professeur 992-1997) and Professeur ordinaire (since 1988) of the University of inshasa.

Law of the Sea course, Faculty of Law and Economic Sciences, niversity of Bangui (Central African Republic) (1988-1990); ternational Humanitarian Law and Public International Law courses, aculty of Law, University of Kinshasa (since 1988); Human Rights ourse, Catholic Faculties of Kinshasa (1990-1993). Guest Professor nd/or conference delegate at the University of Bangui (1988-1990) and the Université libre de Bruxelles (2000).

Academic Secretary of the Faculty of Law of the University of inshasa, responsible for implementing the course curriculum (1988-994); Vice-Dean of the Faculty (1994-1995), responsible for organizing eoretical and practical instruction; member of the Faculty Office, sponsible for deputizing for the Dean; Member of the Management ommittee, responsible for deputizing for the academic Secretary-eneral and, if necessary, the Rector (October 1995 and March 1996); dministrative Secretary-General of the University (1995-1996). Vice-esident of the Association of Professors (1990-1995).

Legal Adviser to the Ministry of Higher and University Education 977-1980); Deputy-Editor of the *Annals* of the Faculty of Law Kinshasa niversity (since 1990); Regional representative, African Human Rights d Justice Network (1990-1995); co-promoter and scientific adviser to Zairian Association of Human Rights (since 1991); Chairman of the b-Committee on Human Rights and Fundamental Freedoms of the vereign National Conference of Zaire (1991-1992).

Participant in the European Conference on "The New Law of the Sea d the Environment in the European Context", Brussels, January 1983; oderator at the first Central African regional seminar on International manitarian Law organized by the International Committee of the Red oss, Kinshasa, March 1988; Moderator at the second Central African ional seminar on International Humanitarian Law organized by the ernational Committee of the Red Cross, Kinshasa, April 1989; bassador and member of the group of 10 eminent Congolese citizens ponsible for conducting the ICRC World Campaign for the Protection War Victims, Kinshasa, November 1991; participant in the second ncophone study days of AUPELF-UREF and in the establishment of francophone network "Droit de l'environnement", Montreal, August-ptember 1992; Moderator at the fifth African regional seminar on ernational Humanitarian Law, Yaoundé (Cameroon), November 2; participant in the evaluation meetings on the draft "Droit de vironnement", AUPELF-UREF, Louvain-la-Neuve (Belgium), June 3, June 1994 and September 1995; participant in the fifth Congress he African Society of International and Comparative Law on "Africa, the OAU and the New World Order", Accra (Ghana), September 1993; participant in the sixth Congress of the African Society of International and Comparative Law on "The OAU and Africa in the Year 2000: Settlement of Conflicts and Protection of Displaced Persons", Kampala (Uganda), September 1994; participant in the seminar workshop on "Les enfants et les conflits en Afrique centrale", Kinshasa, November 1994; participant in the seventh Congress of the African Society of International and Comparative Law on "Regional Integration in Africa as a Solution to the Economic Problems of the Continent", Johannesburg (South Africa), August 1995; Principal Moderator on the Panel for the Rule of Law in Africa, at the ninth Congress of the African Society of International and Comparative Law on "Les techniques juridiques pour la mise en œuvre de l'Etat de droit en Afrique", Abidjan (Ivory Coast), August 1997; participant in the Joint OAU/ICRC/UN/EU seminar on "Anarchical Conflicts" for permanent representatives to the United Nations Security Council and the OAU, Addis Ababa (Ethiopia), 30-31 March 1998; delegate of the Democratic Republic of the Congo to the 34th OAU Summit, Ouagadougou (Burkina Faso), 2-10 June 1998; participant in the fourth world symposium on the thought of Moammar Khadafi, "Green Book" on "The Crisis of the International Community on the Threshold of the Twenty-first Century", Tripoli (Libyan Arab Jamahiriya), 29 November to 3 December 1999; keynote speaker at the Day of Reflection of 28 October 2000 on "Perspectives de paix en Angola et en République démocratique du Congo", organized by the Southern Africa Committee, Brussels Centre of African Studies of the Université libre de Bruxelles; invited by the Foreign Office (United Kingdom) to the conference on Justice in Africa (2001).

Consultant to the Ministry of Oil and Industry Development, responsible for studying the issue of delimitation of the maritime boundaries of the Democratic Republic of the Congo (1998); consultant to the Ministry of Energy for the preparation of the draft agreement on scientific co-operation between the Democratic Republic of the Congo, on the one hand, and the United States Universities of Miami and Syracuse, on the other, in the context of the geoscience project for Lakes Edward-Albert-Tanganyika (GEOLAT, 1998-2001), a component of the programme of the International Decade for East African Lakes (IDEAL), 1993-2003 (1998); expert approved by the World Bank for the third Zaire World Bank water project, 1989 appropriation, ZR, officer for the preparation of a water code in Zaire (1989-1994).

Moderator of the International Humanitarian Law Seminar for the High Command of the Armed Forces of Togo, Lomé (1996); Moderator of the International Humanitarian Law Seminar for United Nations human rights officers, Geneva (1996); unsuccessful candidate for election to the post of Judge of the United Nations International Tribunal for the Law of the Sea, Hamburg (1996); co-ordinator (grade L-4) of the project to establish a Chair of Human Rights and International Humanitarian Law in the Bujumbura (Burundi) Military Academy

1996), co-ordinator (grade L-4) of the draft "promotion de l'Etat de roit" in the Republic of Haiti (1997-1999), expert in protection and eservation of the marine environment, approved by UNEP for special rbitration (since 1999).

Founding member of the francophone network "Droit de l'environne- ment", Montreal (since 1992); Member of the Law of the Sea Institute, Honolulu (since 1999); Member of the African Society of International nd Comparative Law, London (since 1993).

Deputy-Editor of the *Revue interdisciplinaire des droits de l'homme* 995-1996); designated best Africanist by the Association of African tudents (Kinshasa) and best educator for peace by the association of GOs for peace (Kinshasa) (1999).

Principal publications and articles: "L'ordre juridique à l'épreuve des éalités", *African Journal of International and Comparative Law*, Vol. V, o. 1, 1993; "L'idée d'ingérence à la lumière du nouvel ordre mondial", *frican Journal of International and Comparative Law*, Vol. VI, No. 1, 994; "Faut-il instituer un mécanisme juridictionnel africain de règlement es différends?", *African Society of International and Comparative Law*, roceedings 6, 1994; "Le parapluie humanitaire de l'enfant", *Revue inter- sciplinaire des droits de l'homme*, Vol. I, No. 1, 1995; "Preliminary bservations on the Constitutional Act, Haiti: The 1987 Constitution nd Human Rights", *Proceedings of the MICIVIH-UNDP International ymposium, 1997, held in Port-au-Prince*, published by the International ivilian Mission in Haiti (UN/OAS), 1998; "La doctrine d'ingérence umanitaire revisitée", *African Journal of International and Comparative aw*, Vol. IX, No. 3, 1997; "Le rôle incertain de la société civile dans le glement des conflits internes. L'état du droit en Afrique à l'orée de l'an 00. Quelles perspectives?", *Proceedings of the First African Legal Days Brussels, 1998, Catholic University of Brussels, RDIA*, 1999 (forth- oming); "The 'conflit anarchique', en question", *Revue du droit africain* russels), No. 7, 1998; "Universalisme et régionalisme en droits de omme et des peuples", *Proceedings of the Fourth Philosophy Days of anisius*, Saint-Pierre Canisius Faculty of Philosophy, Kinshasa, 2000; 'accord de Syrte du 18 avril 1999 pour le règlement des différends dans Grands Lacs", Reading note, *African Journal of International and mparative Law*, Vol. 11, No. 3, 1999; "The Contribution of the Syrte greement of 18 April 1999 to the Settlement of Disputes in the Great kes Region", *Proceedings of the Fourth World Symposium on the Ideas Moammar Khadafi "Green Book" on "The Crisis of the International mmunity on the Threshold of the Twenty-first Century"*, Tripoli, 1999 rthcoming); "The Second 'United Nations Take-over' of the Congo", *ace Prospects in Angola and in the Democratic Republic of the Congo, ceedings of the Day of Reflection of 28 October 2000 Organized by the uthern Africa Committee, the Brussels Centre of African Studies of Free University of Brussels* (forthcoming); *Water Quality Standards Comparative Law*, communication to the first National Symposium Water Quality Norms, National Action Committee on Water and

Sanitation, Kinshasa, 1988; *Le nouveau droit de la mer au regard de l'Afrique*, lecture-discussion, University of Kinshasa, 1998; *L'Europe de 1993 et ses implications sur la coopération euro-africaine en matière maritime*, communication au Séminaire international sur l'Europe de 1992 et l'Afrique, University of Kinshasa, 1990; *Les Etats sans littoral et le droit de la mer*, lecture-discussion, University of Bangui (Central African Republic), 1989; "Les institutions de gestion des forêts au Zaïre", symposium of the "droit de l'environnement" network, Limoges, 1994; *Droit, forêts et développement durable*, 1996; *Le nouveau droit de la mer dans le contexte économique du Zaïre*, 1994; "L'infortune du Comité de pêche du golfe de Guinée, l'intégration régionale est-elle une solution aux problèmes économiques de l'Afrique?", *Proceedings of the Eighth Congress of the African Society of International and Comparative Law*, 1996; "L'odyssée du droit de la mer dans les abysses", *Liber Amicorum Mohammed Bedjaoui*, 1999.

Judge *ad hoc* Christine Van Den Wyngaert

(Judge *ad hoc* in the case concerning *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*)

Born in Antwerp, Belgium, on 2 April 1952.

Licenciée en droit, Free University of Brussels (1974, *magna cum laude*); Licenciée en criminologie, University of Brussels (1975, *laude*); Docteur en droit (Ph.D. with doctoral thesis), Free University of Brussels (1979, *maxima cum laude*; 1980, thesis awarded the Henri Rolin prize); Doctor *honoris causa*, University of Uppsala, Sweden (2001).

Researcher of the National Fund for Scientific Research (1974-1984) (research field: international criminal law); Professor of Law at the University of Antwerp, teaching criminal and criminal procedure law, international criminal law and comparative criminal (procedure) law (since 1985); Vice-Dean of the Law Faculty (1993-1997); Academic co-ordinator of international exchange programmes of the Law Faculty (since 1989).

Visiting Fellow at the University of Cambridge (Centre for European Legal Studies (1994-1996), Research Centre for International Law (1996-1997); Visiting Professor at the Law Faculty of the University of Stellenbosch (2001).

Expert for the International Law Association (Committee on Terrorism, 1985-1989); Observer of the Human Rights League at the trial of Helen Passtoors Johannesburg (1986); Vice-President of the Commission belge de réforme de la procédure pénale (Commission Franchimont) (1991-1998); Civil Law Reporter of the Committee on Extradition and Human Rights (1992-1998); Expert for the Direction générale XX de la Commission européenne et de l'UCLAF-OLAF: participated in different studies on fraud in the Europeean Union (e.g., *Corpus* uris pour la répression de la fraude transnationale en Europe. 93-2001); expert for the International Association of Penal Law General Rapporteur for the Fourth Section (international co-operation) the International Congress on Organized Crime, Budapest, 1999); pert for the Belgian Ministry of Justice, Group of Experts drafting new gislation on international co-operation in criminal matters (1999-2001); eneral Rapporteur on Protection pénale des intérêts financiers dans les tats candidats à l'adhésion (European Commission and Académie de oit européen de Trèves) (since 2000).

Judge *ad litem*, International Criminal Tribunal for the former ugoslavia (since 2001).

Principal publications: *The Political Offence Exception to Extradition. he Delicate Problem of Balancing the Rights of the Individual and the ternational Public Order*, 1980; *Strafrecht en het strafproces in hoofd- nen*, 4th ed., 1999; *La protection juridique des intérêts financiers s Communautés européennes*, 1992; *Comparative Criminal Procedure stems in the European Community*, 1993; *EG-fraudebestrijding in de aktijk*, 1994; *International Criminal Law and Procedure*, 1996; *Corpus ris houdende strafbepalingen ter bescherming van de financiële belangen n de Europese Unie portant dispositions pénales pour la protection des térêts financiers de l'Union européenne*, 1998; *International Criminal w. A Collection of International and European Instruments*, 2000.

Principal articles: "La Belgique et l'exception pour délits politiques en atière d'extradition: analyse critique de la pratique judiciaire et adminrative", *Rev. D. pén.*, 1979; "Terrorisme individuel et terrorisme d'Etat: e différence d'analyse?", *Licéité et références légales aux valeurs. X^e urnées d'études Jean Dabin*, 1982; "Les euromissiles et le droit pénal ernational", *Les conséquences juridiques de l'installation éventuelle des ssiles Cruise et Pershing en Europe*, 1984; "Les infractions graves aux nventions de Genève et à leurs protocoles additionnels eu égard aux gles internationales concernant la prescription des crimes de guerre et xtradition", *Rev. D. pén militaire et D. de la guerre*, 1982; "Coping th Non-International Armed Conflicts: The Borderline between tional and International Law" (with B. De Schutter), *The Georgia urnal of Int. & Comp. Law*, 1983; "Criminal Law and the European mmunities: Defining the Issues", *Mich. Yb. Int. Legal Studies*, 1983; uerilla and International Humanitarian Law; Aspects of Criminal Law d Human Rights", *Guerilla and Humanitarian Law* (Henri Dunant ies, No. 7), 1984; "Structure et méthodes de la coopération internatiole et régionale en matière pénale. Rapport belge au XIII^e Congrès de ssociation internationale de droit pénal, 1^e partie", *Rev. D. pén.*, 1984; he Political Offence Exception. Defining the Issues and Searching for easible Alternative", *RBDI*, 1985; "The State v. H. Passtoors. The server's Report. A European Perspective", *South African Journal Human Rights*, 1986; "War Crimes, Extradition and Statutory nitations", M. C. Bassiouni (ed.), *International Criminal Law*, 1986; viation Terrorism. Jurisdiction and Its Implications", *Proceedings of* *the International Conference on Aviation Security*, 1987; "The Death Penalty, Military Offences and International Crimes", *Rev. int. D. pén.*, 1987, and *Revue de droit pénal militaire et de droit pénal militaire et de droit de la guerre*, 1988; "Le droit pénal belge et la répression des délits internationaux: problèmes légaux surgissant de la mise en œuvre des délits internationaux", *Rev. D. pén.*, 1988; "The Political Offence Exception to Extradition: How to Plug the Terrorist's Loophole", *Israel Yearbook on Human Rights*, 1989, and *Rev. int. D. pén.*, 1991; "Belgian Criminal Law and Suppression of International Crimes: Legal Problems Emerging from the Implementation of International Crimes", *Rev. int. D. pén.*, 1989; "Applying the European Convention on Human Rights to Extradition: Opening Pandora's Box?", *Int. & Comp. L.Q.*, 1990; "Double Criminality as a Condition to Jurisdiction", N. Jareborg (ed.), *Double Criminality. Studies in International Criminal Law, geschriften van de rechtfaculteit van Uppsala*, 1989; "Extradition et asile politique" (in collaboration with M. Chiavario, J. Gauthier and R. 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Judge *ad hoc* Patrick Fernand Odiel Marie DUINSLAEGER

(Judge *ad hoc* in the case concerning *Legality of Use of Force*
(Yugoslavia v. Belgium))

Born at Ostend, Belgium, on 30 May 1953.

icencié en droit, University of Brussels (First Class Honours) (1978).

Trainee advocate at the Brussels Bar and judicial trainee in the Public
secutor's Office at the Brussels Court of First Instance (1978-1983);
puty Prosecutor (1983), and Senior Deputy Prosecutor, Crown
secutor's Office, Brussels (1988); Deputy Prosecutor-General, Court
Appeal, Brussels (1991).

oint Director, Interforces Anti-terrorist Group (1984-1997); Joint
ector, Special Police Unit for the Suppression of Terrorism and
anized Crime (1987-1997).

Member of various supervisory committees set up by the Minister of
Interior to oversee university research (1988-1997). Lecturer [*chargé*
cours] at the Ecole de Criminologie et de Criminalistique (Institut
ional de Criminologie et de Criminalistique) (1989-1997).

hair of the Belgian Delegation to the "Benelux" Working Group for
rnational Co-operation (1993).

enior State Judicial Officer responsible for national and international co-ordination of the fight against organized crime and for international police and judicial co-operation (1991-1997).

Appointed Judicial Liaison Officer for Belgium to the International Criminal Tribunal for the former Yugoslavia and to the International Criminal Tribunal for Rwanda (1995-1998).

Head of Cabinet to the Minister of Justice (1998-1999).

Advocate-General at the Court of Cassation (1999).

Knight of the Order of Leopold.

Knight of the Order of the Crown.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of he Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) States Members of the United Nations

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of he Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 2001 the following 189 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	.. ..
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	.. ..
Chile	Original Member
China	.. ..
Colombia	.. ..
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	.. ..
Egypt	.. ..
El Salvador	.. ..
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	.. ..
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	.. ..
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kiribati	14 September 1999
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
ao People's Democratic Republic	14 December 1955
atvia	17 September 1991
ebanon	Original Member
esotho	17 October 1966
iberia	Original Member
ibyan Arab Jamahiriya	14 December 1955
iechtenstein	18 September 1990
ithuania	17 September 1991
uxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991

State	*Date of Admission*
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nauru	14 September 1999
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	.. ..
Nicaragua	.. ..
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	.. ..
Philippines	.. ..
Poland	.. ..
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993

State	*Date of Admission*
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Togo	20 September 1960
Tonga	14 September 1999
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Tuvalu	5 September 2000
ganda	25 October 1962
kraine	Original Member
nited Arab Emirates	9 December 1971
nited Kingdom of Great Britain and Northern Ireland	Original Member
nited Republic of Tanzania	14 December 1961
nited States of America	Original Member
ruguay	" "
zbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
iet Nam	20 September 1977
emen	30 September 1947
ugoslavia	1 November 2000
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become arties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

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[1] The full text of the resolutions referred to in this section is given on pages 175-183 of C.J. *Acts and Documents No. 5.*

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[1]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.
>
> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "*(a)* A State which is a party to the Statute of the International

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[1] See below, Chap. VIII, p. 370.

Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations.

(*b*) Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following State not a member of the United Nations is at present a party to the Statute[1]:

State	*Resolution of the General Assembly*	*Deposit of the instrument of acceptance*
Switzerland	91 (I), 11 December 1946	28 July 1948

(*c*) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[2]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

> "The Security Council
>
> In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,
>
> Resolves that:
>
> 1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court

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[1] Before becoming Members of the United Nations, Japan, Liechtenstein, San Marino and Nauru were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950, 18 February 1954 and 29 January 1988, respectively.

[2] See also Rules, Art. 26, para. 1 (*c*), and Art. 41, and below, Chap. VIII, p. 370.

> and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> 2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;
>
> 3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;
>
> 4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;
>
> 5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. *Basis of the Court's Jurisdiction*

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America* (*United States of America* v. *Hungary*) (*United States of America* v. *USSR*); *Aerial Incident of 10 March 1953* (*United States of America* v. *Czechoslovakia*); *Antarctica* (*United Kingdom* v. *Argentina*) (*United Kingdom* v. *Chile*); *Aerial Incident of 7 October 1952* (*United States of America* v. *USSR*); *Aerial Incident of 4 September 1954* (*United States of America* v.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and

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USSR); *Aerial Incident of 7 November 1954 (United States of America v. USSR)*. On 1 July 1978 the present Rules of Court came into force, Article 38, paragraph 5, of which provides:

> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992, instituting proceedings against the Czech and Slovak Republic, an Application filed by the Federal Republic of Yugoslavia on 16 March 1998, instituting proceedings against the Member States of NATO, and an Application filed by Eritrea on 16 February 1999, instituting proceedings against Ethiopia. In the cases concerning *Legality of Use of Force (Yugoslavia v. France)*, *(Yugoslavia v. Germany)*, *(Yugoslavia v. Italy)*, *(Yugoslavia v. United States of America)*, Yugoslavia referred to Article IX of the Genocide Convention of 1948 and to Article 38, paragraph 5, of the Rules of Court as bases for the jurisdiction of the Court. The cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention.

[1] The following 14 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrehos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*; *Kasikili/Sedudu Island (Botswana/Namibia)*; *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*. In the *Corfu Channel (United Kingdom v. Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*[1]: this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 159-177). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 110-116) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports* (*P.C.I.J., Series E, Nos. 8-16*) the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

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[1] With the exception of the 14 cases listed on page 105, footnote 1, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

(*a*) the interpretation of a treaty;

(*b*) any question of international law;

(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 116-159).

d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[2].

f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[1].

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[1] See below, Chap. V, Sec. III, part 3, p. 195.

[2] An application for interpretation of the Judgment was made by Colombia in respect f the *Asylum* (*Colombia/Peru*) case and by Nigeria in respect of the Court's Judgment n preliminary objections of 11 June 1998 in the case concerning the *Land and faritime Boundary between Cameroon and Nigeria* (*Cameroon v. Nigeria*).

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[2]:

United Nations:

General Assembly[3].

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[1] An application for revision of the Court's Judgment on preliminary objections of 11 July 1996 was filed by Yugoslavia in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*. An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[2] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

[3] The General Assembly has requested 14 advisory opinions of the Court in the following 13 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*; *Reparation for Injuries Suffered in the Service of the United Nations*; *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*; *id., Second Phase*; *Competence of the General Assembly for the Admission of a State to the United Nations*; *International Status of South West Africa*; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; *Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa*; *Admissibility of Hearings of Petitioners by the Committee on South West Africa*; *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*; *Western Sahara*; *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*; *Legality of the Threat or Use of Nuclear Weapons*.

    Security Council[1],
    Economic and Social Council[2],
    Trusteeship Council,
    Interim Committee of the General Assembly;
International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[3];
World Health Organization[4];
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[5];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 110-116) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

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[1] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

[2] The Economic and Social Council requested an advisory opinion of the Court in two cases: *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* and *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

[3] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

[4] The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*.

[5] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

CHAPTER [illegible]

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter[1]; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

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[1] By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's Statute again, *inter alia* deleting Article 11 with respect to Judgements rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. *All Specialized Agencies*

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. International Labour Organisation

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. Food and Agriculture Organization of the United Nations

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. United Nations Educational, Scientific and Cultural Organization

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, ol. 4)[1].

Agreement between the United Nations and the United Nations ducational, Scientific and Cultural Organization, approved by the eneral Assembly of the United Nations on 14 December 1946, as revised nd approved by the General Assembly of the United Nations on December 1962, Article X[2] (United Nations, *Treaty Series*, II, o. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and ultural Organization and France regarding the Headquarters of Unesco nd the privileges and immunities of the Organization on French territory, July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, ol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 5-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health rganization, approved by the General Assembly of the United Nations n 15 November 1947, Article X (United Nations, *Treaty Series*, II, o. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for econstruction and Development, approved by the General Assembly of e United Nations on 15 November 1947, Article VIII (United Nations, *eaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the ternational Finance Corporation, approved by the General Assembly the United Nations on 20 February 1957, paragraph 1 (United ations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the Inter- tional Development Association, approved by the General Assembly

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See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the tocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to responsible for seeking the settlement of any disputes which may arise between States ties to the Convention against Discrimination in Education, Article 18 (Unesco docu- nt 12C Resolutions).

Article XI before the revision of 1962.

of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

8. *International Monetary Fund*

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. *International Civil Aviation Organization*

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. *International Telecommunication Union*

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. *World Meteorological Organization*

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. *International Maritime Organization*

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1]

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 2001 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 63 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

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[1] Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 56; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

AUSTRALIA

17 III 75.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four[1]; and

Whereas Australia desires to withdraw the said declaration;

The Government of Australia hereby withdraws the said declaration and declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(*Signed*) E. G. WHITLAM,
Prime Minister acting for and on
behalf of the Minister of State for
Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

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[1] United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(*Signed*) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(*Signed*) Bruno KREISKY,
The Federal Chancellor.

(*Signed*) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made other than:

(*a*) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,
(*b*) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,
(*c*) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,
(*d*) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(*Signed*) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

[*Translation from the French*] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[2]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(*Signed*) V. LAROCK,
Minister
for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

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[1] Belgium had deposited in 1948 a declaration valid for five years (United Nations, *Treaty Series*, I, No. 260, Vol. 16).

[2] The instrument of ratification was deposited on 17 June 1958.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(*Signed*) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian] 24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(*Signed*) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[*Translation from the French*] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;

(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(*Signed*) SIM VAR.

CAMEROON

[*Translation from the French by the Registry*] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

(*Signed*) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985[1] in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(*a*) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(*c*) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and

(*d*) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(*Signed*) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

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[1] *I.C.J. Yearbook 1992-1993*, pp. 79-80.

COLOMBIA[1]

[Translation from the French] 30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(Signed) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO
Minister for Foreign Affairs.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

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[1] An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

(a) the interpretation of any treaty —

  I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or
  II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(a) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;
(b) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(Signed) George IACOVOU,
Minister of Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[Translation from the French] 8 II 89.

. . . in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(*Signed*) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK[1]

[*Translation from the French*] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(*Signed*) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[*Translation from the French*] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[2], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(*Signed*) Jacinto R. DE CASTRO.

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[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

[2] The instrument of ratification was deposited on 4 February 1933.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 (*b*) of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[1], the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 (*b*) of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(*Signed*) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(*Signed*) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accor dance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

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[1] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

New York, 25 June 1958.

(*Signed*) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(*a*) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(*b*) disputes with any country in the Commonwealth;
(*c*) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(*Signed*) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Thbilisi, 16 June 1995.

(*Signed*) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[Translation from the French] 10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(*Signed*) Karolos PAPOULIAS,
Minister for Foreign Affairs.

GUINEA

[Unofficial translation from the French by the Registry] 4 XII 98.

I have the honour, in the name of the Government of the Republic of Guinea, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the said Government accepts as compulsory *ipso facto* and without special agreement, in relation to any other States accepting the same obligation, the jurisdiction of the Court in all legal disputes arising since 12 December 1958 and subsequent to this declaration concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

The Republic of Guinea makes this declaration on condition of reciprocity on the part of all States. However, it may refuse to accept the jurisdiction of the Court in the case of:

(*a*) disputes in respect of which the parties have agreed to have recourse to some other mode of settlement;

(*b*) disputes concerning questions which, under international law, fall within the exclusive jurisdiction of the Republic of Guinea.

Finally, the Government of the Republic of Guinea reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to amend or withdraw this declaration.

Conakry, 11 November 1998.

(*Signed*) Lamine KAMARA,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(*Signed*) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(*Signed*) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

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[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

   (*a*) the interpretation of a treaty;
   (*b*) any question of international law;
   (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
   (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:

   (*a*) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   (*b*) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
   (*c*) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
   (*d*) disputes referring to:

      (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
      (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
      (iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(*Signed*) José AZCONA H.,
President of the Republic.

(*Signed*) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(*a*) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(*c*) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(*d*) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(*Signed*) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;
(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;
(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;
(9) disputes with non-sovereign States or territories;
(10) disputes with India concerning or relating to:

(*a*) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
(*b*) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
(*c*) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

(*d*) the airspace superjacent to its land and maritime territory; and
(*e*) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(*Signed*) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(*Signed*) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the

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[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;
(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;
(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(*Signed*) Joseph MURUMBI,
Minister for External Affairs.

LESOTHO

6 IX 2000.

On behalf of the Kingdom of Lesotho, I have the honour to declare that the Kingdom of Lesotho recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute the solution of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force until notice of its termination is given.

Dated at Maseru, this 31st day of August 2000.

(*Signed*) Motsoahae Thomas THABANE,
Minister of Foreign Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(*a*) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(*b*) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(*Signed*) Gabriel L. DENNIS,
Secretary of State.

LIECHTENSTEIN

[*Translation from the French*] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[1] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(*Signed*) A. FRICK,
The Head of Government.

LUXEMBOURG[2]

[Translation from the French] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(*Signed*) BECH.

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[1] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

[2] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

MADAGASCAR

[Translation from the French] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

the interpretation of a treaty;
any question of international law;
the existence of any fact which, if established, would constitute a breach of an international obligation;
the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning —

(a) the interpretation of a treaty;
(b) any question of international law;

(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to —

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
(ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(*Signed*) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;

(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(*Signed*) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and

(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

- (*a*) its territory, including the territorial sea, and the status thereof,
- (*b*) the continental shelf or any other zone of maritime jurisdiction and the resources thereof,
- (*c*) the determination or delimitation of any of the above,
- (*d*) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(*Signed*) Alex SCEBERAS TRIGONA,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

- (i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
- (ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
- (iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;
- (iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;
- (v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(*Signed*) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[*Translation from the Spanish*] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(*Signed*) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987[1] deposited with the United Nations Secretary-General on 29 January 1988, whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(*Signed*) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

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[1] *I.C.J. Yearbook 1987-1988*, p. 84.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(*Signed*) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[2] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1.
[2] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(*Signed*) M. J. C. Templeton,
Permanent Representative of
New Zealand to the United Nations.

Nicaragua[1]

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(*Signed*) T. F. Medina.

Nigeria

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

(i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;

(ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;

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[1] See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

(iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;

(iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;

(v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;

(vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;

(vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;

(viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;

(ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(*Signed*) Chief Tom IKIMI,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY[1]

25 VI 96.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

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[1] This is the text of the declaration as amended by letter of 24 June 1996 received by the Secretary-General of the United Nations on the following day. The first paragraph of that letter read as follows:

"On behalf of the Government of Norway,

I give notice that I hereby amend the acceptance by Norway of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 2 April 1976 in conformity with paragraph 2 of Article 36 of the Statute of the Court. As amended, the declaration shall read:

The declaration of 1976 replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

New York, 24 June 1996.

(*Signed*) Hans Jacob Biorn LIAN,
Permanent Representative of
Norway to the United Nations.

PAKISTAN[1]

13 IX 60

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(*a*) disputes the solution of which the parties shall entrust to other trib nals by virtue of agreements already in existence or which may be concluded in the future; or

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[1] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

(b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;

(c) disputes arising under a multilateral treaty unless

(i) all parties to the treaty affected by the decision are also parties to the case before the Court, or

(ii) the Government of Pakistan specially agree to jurisdiction; and

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(*Signed*) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA[1]

[*Translation from the French*] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(*Signed*) R. A. AMADOR,
Chargé d'affaires.

PARAGUAY

[*Translation from the Spanish*] 25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

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[1] An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 123, above.

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996.

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, Rubén Melgarejo Lanzoni, in the city of Asunción, capital of the Republic of Paraguay, on 17 September 1996.

(*Signed*) Juan Carlos WASMOSY,
President.

(*Signed*) Rubén MELGAREJO LANZONI,
Minister for Foreign Affairs.

PHILIPPINES[1]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute

(*a*) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or

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[1] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, No. 101, Vol. 7).

(*b*) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or

(*c*) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

(*d*) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or

(*e*) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines

  (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or

  (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(*Signed*) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990[1] in light of Article 36, paragraph 2, of the Statute of the Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(*a*) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,

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[1] *I.C.J. Yearbook 1994-1995*, pp. 109-110.

(*b*) disputes with regard to the territory and State boundaries.
(*c*) disputes with regard to environmental protection.
(*d*) disputes with regard to foreign liabilities or debts.
(*e*) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court.
(*f*) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement.
(*g*) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(*Signed*) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;
(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;
(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(*Signed*) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

the interpretation of a treaty;
any question of international law;
the existence of any fact which, if established, would constitute a breach of an international obligation;
the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(*Signed*) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of

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[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi Issa,
Minister for Foreign Affairs.

Spain

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;
(b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;
(c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;
(d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend

or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(*Signed*) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(*a*) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(*b*) any question of international law;
(*c*) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;

(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;

(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(*Signed*) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[*Translation from the French*] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(*Signed*) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

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[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(*Signed*) CELIO,

The President of the Confederation.

(*Signed*) LEIMGRUBER,

The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 1979.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

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[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(*Signed*) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(*Signed*) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

1 I 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

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[1] This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

(i) any dispute which the United Kingdom

- (*a*) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or
- (*b*) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;

(ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;

(iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(*Signed*) L. C. GLASS.

URUGUAY[1]

[Translation from the French] *Prior to* 28 I 21[2]

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory *ipso facto* and without special convention.

(*Signed*) B. FERNANDEZ Y MEDINA.

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 123, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

Yugoslavia

26 IV 99.

I hereby declare that the Government of the Federal Republic of Yugoslavia recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present Declaration does not apply to disputes relating to questions which, under international law, fall exclusively within the jurisdiction of the Federal Republic of Yugoslavia, as well as to territorial disputes.

The aforesaid obligation is accepted until such time as notice may be given to terminate the acceptance.

New York, 25 April 1999.

(*Signed*) Vladislav JOVANOVIC,
Chargé d'affaires a.i. of
the Permanent Mission of Yugoslavia
to the United Nations.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Seri*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada France	II, 54 Vol. 2
1939				
17 Dec.	Bogota	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia Venezuela	II, 39 Vol. 12
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil Venezuela	II, 1 Vol.
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II, 2 Vol.
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II, 9 Vol. 1
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg Belgium France	I, 4 Vol. 2
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1] United States	I Vol. 2
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I Vol.
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I Vol.
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I Vol.

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[1] All entries recorded throughout this Section in respect of China refer to actions tak by the authorities representing China in the United Nations at the time of those action and are to be understood in the light of General Assembly resolution 2758 (XXVI) 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1947	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
18 Apr	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I: 175 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I: 674 Vol. 44
17 Oct	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/Burma	I: 904 Vol. 70
12 Nov [2]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov [2]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan	Paris	Agreement concerning monetary and financial relations (Art. 25)	France/Lebanon	I: 2263 Vol. 173
2 Feb	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I: 1040 Vol. 79
30 Apr	Bogotá	American treaty on pacific settlement	Multilateral	I: 449 Vol. 30
23 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I: 543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I: 423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I: 314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/France	I: 302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/Denmark	I: 338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/Austria	I: 323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/Netherlands	I: 315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/Greece	I: 342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/Belgium	I: 309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/Norway	I: 317 Vol. 20

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[1] See footnote 1, p. 160.

[2] The date and place given here are those of the signature of the amending protocol.

1948 (*cont.*)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States Iceland	I:316 Vol. 20
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States China[1]	I:273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States Luxembourg	I:350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States Sweden	I:343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States Turkey	I:351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States United Kingdom	I:339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States Portugal	I:442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece Lebanon	I:1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I:1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan Ceylon	I:428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I:912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand Philippines	I:1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France Switzerland	I:22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I:2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada Belgium	I:782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala Italy	I:1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I:1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands Lebanon	I:1473 Vol. 108

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[1] See footnote 1, p. 160.

1949 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India Philippines	I: 934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands Iran	I: 3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia Ceylon	I: 789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States Ireland	I: 2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands Mexico	I: 1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran Pakistan	I: 2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I: 342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey Italy	I: 1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt France	I: 1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand Canada	I: 1002 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece Philippines	I: 3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union Mexico	I: 2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom Norway	I: 1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India France	I: 2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom Norway	I: 4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium United Kingdom	I: 2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India Netherlands	I: 1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark Iran	I: 3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I: 2545 Vol. 189

1951 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece United States	I-3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel United States	I-2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States Ethiopia	I-2785 Vol. 206
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I-1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands Australia	I-1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States Denmark	I-6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France United Kingdom	I-4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden United Kingdom	I-2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States-Israel	I-22[illegible] Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia-Egypt	I-225[illegible] Vol. 17[illegible]
11 July	Manila	Treaty of friendship (Art. II)	India-Philippines	I-2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan Netherlands	I-1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia-Pakistan	I-1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I-2937 Vol. 216
1953				
9 Jan.		Treaty of permanent friendship (Art. VI)	Costa Rica-Spain	
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I-2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I-6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States-Japan	I-2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece United Kingdom	I-2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand Philippines	I-2234 Vol. 174

1953 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I:6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I:2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands Ceylon	I:2608 Vol. 193
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland Denmark	I:2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain United States	I:2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I:2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep 1926, as amended (Art. 8)	Multilateral	I:2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium Lebanon	I:2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden France	I:3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand Indonesia	I:2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom Mexico	I:4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia Lebanon	I:8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I:4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom Italy	I:5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I:5158 Vol. 360

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

1954 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Seri*
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I:10416 Vol. 724
23 Oct.[1]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I:304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States Fed. Rep. of Germany	I:3943 Vol. 273
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma Japan	I:3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy Brazil	I:4146 Vol. 284
1 Dec.[2]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I:11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands Ecuador	I:3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines United Kingdom	I:2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden France	I:6170 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States Iran	I:4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy Switzerland	I:425 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I:542 Vol. 37
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark Lebanon	I:3482 Vol. 238
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I:7660 Vol. 529

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[1] The date and the place given here are those of the signature of the protocol modifyi and completing the Treaty, by which Article VIII of the Treaty became Article X.

[2] The date and place given here are those of the signature of the revised Convention.

1956	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands United States	I:4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I:4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I:5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I:3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom Fed. Rep. of Germany	I:4748 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines Switzerland	I:4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I:3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States Rep. of Korea	I:4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece Sweden	I:4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I:4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway Japan	I:4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	I:3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I:4646 Vol. 230
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan Afghanistan	I:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan Indonesia	I:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I:5471 Vol. 381

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[1] See Sec. II, p. 126, above.

1958 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway Pakistan	I/4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden Pakistan	I/5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark Pakistan	I/4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium Iran	I/5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[1]	Multilateral	I/6466 Vol. 450
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan Portugal	I/4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium Pakistan	I/5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria Afghanistan	I/9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia Netherlands	I/5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands Honduras	I/9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India Italy	I/6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States Pakistan	I/5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I/5862 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States France	I/5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan Fed. Rep. of Germany	I/6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I/5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden Liberia	I/6716 Vol. 465
1960				
13 Feb.[2]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy Lebanon	I/3223 Vol. 497

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[1] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

[2] The date given here is the date of signature of the amending protocol.

1960 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands Guinea	I/5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I/8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium Switzerland	I/5906 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands Fed. Rep. of Germany	I/7404 Vol. 509
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands Fed. Rep. of Germany	I/7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom Austria	I/7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium Jordan	I/6959 Vol. 479
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I/6193 Vol. 429
14 Dec.[1]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India Australia	I/552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan Japan	I/6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium United States	I/6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium United Kingdom	I/7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland United Kingdom	I/5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I/7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States Republic of Viet Nam	I/6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I/7312 Vol. 500

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[1] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 May	Madrid	Consular convention (Art. [illegible])	United Kingdom Spain	I:8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I:6728 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland Fed. Rep. of Germany	I:5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I:11304 Vol. 793
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I:1619 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States Luxembourg	I:6829 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:[illegible] Vol. [illegible]
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom Denmark	I:8197 Vol. [illegible]
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:[illegible] Vol. [illegible]

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

1962 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July[1]	Paris and Rocher Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France, Algeria	I: 7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom, Japan	I: 6934 Vol. 479
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I: 7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States, Republic of Korea	I: 7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relations concerning the compulsory settlement of disputes	Multilateral	I: 8640 Vol. 596
12 Aug.	Asuncion	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands, Paraguay	I: 8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I: 10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I: 8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I: 11473 Vol. 805
5 Dec.[2]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I: 1691 Vol. 490

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[1] The date and the places given here are those of the exchange of letters.

[2] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1963	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Dec	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I. [illegible] Vol. [illegible]
1964				
4 Feb	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan-Lebanon	I. [illegible] Vol. [illegible]
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom-Japan	I. [illegible] Vol. [illegible]
19 Sep	Beirut	Agreement relating to air services (Art. XI)	India-Lebanon	I. [illegible] Vol. [illegible]
1965				
25 Jan	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I. [illegible] Vol. [illegible]
18 Mar	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I. 8359 Vol. 575
21 Apr	Belgrade	Consular convention (Art. 45)	United Kingdom-Yugoslavia	I. [illegible] Vol. [illegible]
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I. [illegible] Vol. [illegible]
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom-Switzerland	I. [illegible] Vol. [illegible]
1966				
8 Feb	Lomé	Treaty of amity and economic relations (Art. XIV)	United States-Togo	I. [illegible] Vol. [illegible]
15 Feb	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I. [illegible] Vol. [illegible]
7 Mar	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I. 9464 Vol. 660
1967				
31 Jan	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I. 8791 Vol. 606
14 Feb	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I. 9068 Vol. 634
14 Mar	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands-Philippines	I. [illegible] Vol. [illegible]

967* (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Mar	Kabul	Agreement relating to air services (Art. IX)	Denmark Afghanistan	I: 9051 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I: 15849 Vol. 1051
0 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I: 9071 Vol. 696
4 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I: 11851 Vol. 828
968				
3 Feb	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1924 (Art. 8)	Multilateral	I: 23643 Vol. 1412
8 Nov	Vienna	Convention on road traffic (Art. 52)	Multilateral	I: 15705 Vol. 1042
8 Nov	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I: 16743 Vol. 1091
969				
3 Feb	Geneva	Agreement establishing the European Molecular Biology Conference (Art. XIII)	Multilateral	I: 10462 Vol. 727
3 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I: 18232 Vol. 1155
5 July	Boston	International health regulations (Art. 106)	Multilateral	I: 10921 Vol. 764
2 Sep	Washington	Consular convention (Art. 46)	Belgium United States	I: 13178 Vol. 924
3 Sep	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I: 16545
9 Dec	Belgrade	Consular convention (Art. 46)	Belgium Yugoslavia	I: 13441 Vol. 943
970				
3 Apr	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I: 21051 Vol. 1275
9 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I: 18336 Vol. 1160

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[1] The date and the place given here are those of the signature of the revised Convention.

1970 *cont.*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I 1133 Vol. 79
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I 1232 Vol. 86
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I 1495 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands USSR	I 1269 Vol. 83
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom Ghana	I 1146 Vol. 80
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I 2598
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I 1344 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I 1411 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I 145 Vol.
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium Turkey	I 1514 Vol. 11
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I 25
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I 1 Vol.
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I 13 Vol.

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[1] The date and the place given here are those of the signature of the revised Conventi

973 cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
2 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I 14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I 16208 Vol. 1065
9 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay Argentina	I 21424 Vol. 1295
0 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I 14861 Vol. 1015
4 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I 15410 Vol. 1035
974				
9 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy Spain	I 17429 Vol. 1120
2 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I 18338 Vol. 1161
6 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan Saudi Arabia	I 13605 Vol. 952
975				
6 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay Argentina	I 21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I 14152 Vol. 976
977				
3 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece Italy	I 21048 Vol. 1275
978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I 19487 Vol. 1208

1979	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I-19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan-Philippines	I-20979 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 (*b*))	Multilateral	I-23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I-21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I-20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I-22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador-Honduras	I-21856 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland-Benin	I-19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I-24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I-26164
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I-25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I-29004
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I-27627

1989	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	
1990				
18 Dec.	New York	International Convention on the protection of the rights of all migrant workers and members of their families (Art. 92, para. 1)	Multilateral	
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	
9 May	New York	United Nations framework convention on climate change (Art. 14, para. 2)	Multilateral	
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. Seat

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 375, below).

II. Administration

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President (chair), the Vice-President and five judges who are elected tri-annually (at present Judges Bedjaoui, Ranjeva, Fleischhauer, Vereshchetin and Kooijmans).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 200-201, below).

In 1967 the Court established a Committee on Relations. Its present members are Judges Parra-Aranguren (chair), Herczegh, Rezek and Al-Khasawneh. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Koroma (chair), Higgins, Kooijmans and Rezek) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Fleischhauer (chair), Oda, Bedjaoui, Herczegh, Koroma, Higgins and Buergenthal.

In 1997 the Court established a Committee on Computerization, at present under the chairmanship of Judge Higgins and open to all interested Members of the Court.

In 1999 the Court established a Committee on the Court's Museum. Its members are at present Judges Kooijmans (chair), Oda, Ranjeva and Vereshchetin.

2. *The Registry*

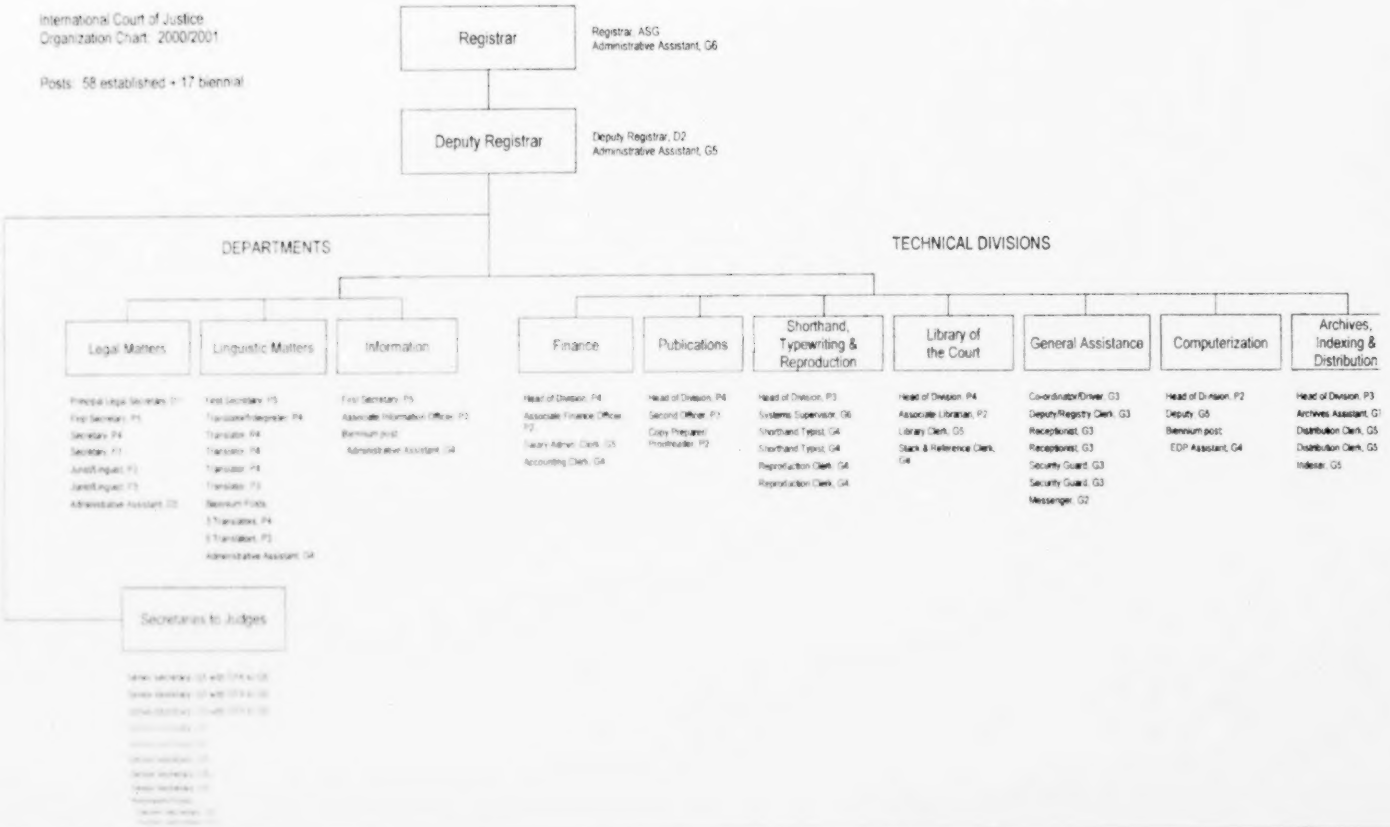
The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced in *I.C.J. Yearbook 1997-1998*, p. 275). Following the inspection on management and administration in the Registry of the Court, made in 1999 by the Joint Inspection Unit, the ensuing report was considered by the General Assembly on 14 June 2001 (cf. General Assembly resolution 55/257). An organization chart of the Registry appears on the following page.

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by

International Court of Justice
Organization Chart: 2000/2001

Posts: 58 established + 17 biennial


Registrar
Registrar, ASG
Administrative Assistant, G6
Deputy Registrar
Deputy Registrar, D2
Administrative Assistant, G5
DEPARTMENTS
TECHNICAL DIVISIONS
Legal Matters
Principal Legal Secretary, D1
First Secretary, P5
Secretary, P4
Secretary, P3
Jurist/Linguist, P3
Jurist/Linguist, P3
Administrative Assistant, G5
Linguistic Matters
First Secretary, P5
Translator/Interpreter, P4
Translator, P4
Translator, P4
Translator, P4
Translator, P3
Biennium Posts:
3 Translators, P4
1 Translator, P3
Administrative Assistant, G4
Information
First Secretary, P5
Associate Information Officer, P2
Biennium post:
Administrative Assistant, G4
Secretaries to Judges
Finance
Head of Division, P4
Associate Finance Officer P2
Salary Admin. Clerk, G5
Accounting Clerk, G4
Publications
Head of Division, P4
Second Officer, P3
Copy Preparer/ Proofreader, P2
Shorthand, Typewriting & Reproduction
Head of Division, P3
Systems Supervisor, G6
Shorthand Typist, G4
Shorthand Typist, G4
Reproduction Clerk, G4
Reproduction Clerk, G4
Library of the Court
Head of Division, P4
Associate Librarian, P2
Library Clerk, G5
Stack & Reference Clerk, G4
General Assistance
Co-ordinator/Driver, G3
Deputy/Registry Clerk, G3
Receptionist, G3
Receptionist, G3
Security Guard, G3
Security Guard, G3
Messenger, G2
Computerization
Head of Division, P2
Deputy, G5
Biennium post:
EDP Assistant, G4
Archives, Indexing & Distribution
Head of Division, P3
Archives Assistant, G
Distribution Clerk, G5
Distribution Clerk, G5
Indexer, G5

Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). He is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, both with international organizations and States and in the fields of information and publications (official publications of the Court, press communiqués, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has recently been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

The present Registrar is Mr. Philippe Couvreur, of Belgian nationality, who was elected on 10 February 2000 for a term of 7 years. Mr. Couvreur, who joined the Court in 1982 as special assistant to the Registrar and the Deputy-Registrar, had risen to the rank of Secretary, then First Secretary, in the Legal Department and had served as Principal Legal Secretary since 1995. He has lectured in public international law at various universities, including the Universite Catholique de Louvain, and he is the author of a number of publications on the Court.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. He was re-elected for a term of seven years on 19 February 2001. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. Lopez-Olivan (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone

(1966-1980), S. Torres Bernardez (1980-1986) and E. Valencia-Ospina (1987-2000). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987) and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service staff, however, are appointed by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 2001:

	Date of assumption of duties	*Nationality*
Department of Legal Matters		
Principal Legal Secretary		
C. R. Staker	4 October 2000	Australian
First Secretary		
J.-P. Isele	5 April 1988	French
Secretaries		
F. Ouguergouz	6 February 1995	Algerian
S. Pounine	1 August 1997	Russian
Legal Officers		
C. Espaliu Berdud	19 June 2000	Spanish
Ms N. Wiles	17 July 2000	British
Department of Linguistic Matters		
First Secretary		
A. Brouillet	13 June 1988	French
Translators/Interpreters		
F. Mengin	5 May 1986	French
T. Johnston	1 September 1998	British
J. Scharfer	17 April 2000	American
Ms D. M. Pierfederici	1 January 1994	French
A. Axelrad	2 July 2001	British
R. Walker	9 July 2001	Irish
C. Madré-Wertz	1 May 2001	Belgian

N. Fourcher	1 May 2001	French
Ms A. Merand	2 July 2001	French
N. Ramade	1 May 2001	French
Ms M. Acker	20 June 1999	French
Ms N. Apfelbaum-Lubek	5 June 2001	French and Canadian
Ms M. Vidil	1 July 2001	French
Department of Information		
First Secretary		
A. Th. Witteveen	15 July 1975	Dutch
Information Officer		
Ms E. Blairon	1 October 1997	Belgian
Publications Division		
P. Vio Head of Division	1 June 1974	Italian
S. H. Herd Deputy Head of Division	1 August 1987	British
A. Baudat	1 November 2000	Swiss
Finance Division		
M. Mendella Head of Division	1 April 1986	Canadian
Ms C. Sappore-Siaw Deputy Head of Division	1 January 1999	Gambian
C. Uriot	1 March 1981	Dutch
E. Komnenovic	1 August 1973	Yugoslav
Documents Division Library of the Court		
A. C. G. M. Eyffinger Librarian, Head of Division	1 February 1988	Dutch
Ms R. S. B. van Megen Deputy Head of Division	13 August 1973	Dutch
M. Schuethart	1 January 1981	Dutch
G. Voorps	1 January 1981	Dutch
Archives, Indexing and Distribution Division		
S. R. S. Bedi Head of Division	16 September 1985	Indian
M. Sow Deputy Head of Division	1 August 1985	Senegalese
Indexing		
Ms M. P. Castro Granja	4 June 2000	Spanish
Distribution		
D. van Rooij	16 April 1975	Dutch
D. Ahanhanzo	1 July 2001	Beninese

Administrative Assistants

Ms A.-M. Curvers	1 September 1996	Belgian
Ms M. D. Donnelly	1 January 1985	British
Ms A. Hooft-Dupont	22 September 1997	Belgian
Ms A. Dumoulin	14 May 2001	French
Ms S. Burer	1 June 1999	Dutch

Shorthand, Typewriting and Reproduction Division

Ms C. Blom-Rakoto Head of Division	5 September 1983	French and Malagasy
Ms H. E. Jeffares Deputy Head of Division	1 February 1985	Irish

Shorthand Typists

French-speaking

Ms D. Brouillet-Sourisseau	1 January 1990	French
Ms F. Delbruyère	14 April 1997	Belgian
Ms B. Chassang	1 October 1999	French
Ms L. Lamarre	10 January 2000	Canadian
Ms S. Tichet	1 February 2001	French

English-speaking

Ms H. Guérin	1 January 2000	American and French
Ms M. Cavelier	19 June 2001	French and Mexican
Ms L. Tanggahma	14 March 2001	Dutch

Reproduction

G. D'Olivo	1 December 1982	Italian and Dutch
E. van Heeswijk	17 August 1993	Dutch

Secretaries of Members of the Court

Ms W. Ch. Deelder Co-ordinator	1 July 1982	Dutch
Ms M. Page	1 January 1981	French
Ms M. Cleary-Cogan	16 January 1989	British
Ms J. E. van Hamel-Newall	1 November 1985	British
Ms J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 June 1987	Dutch
Ms A. Rowland-Moore	1 January 1989	British
Ms M. Sullivan	1 January 1990	British
Ms D. Bloemendaal	1 February 1972	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Ms M.-F. Teven	30 January 1995	French
Ms D. Okandeji	8 September 1997	French
Ms C. Wainwright	1 January 1999	Australian

Computerization Division		
B. J. van Veen	1 March 1982	Dutch
H. Laeijendecker	1 April 1994	Dutch
Ms M. Hand	1 November 1997	British
General Assistance Division		
L. J. van der Meer Co-ordinator	1 February 1979	Dutch
H. R. L. Castens Registry Clerk	1 June 1999	Dutch
Telephone Operators/Receptionists		
Ms M. Buan	1 October 1991	Dutch
Ms I. Kieffer	25 June 2001	French
Security Guards		
R. Pijl	1 January 1990	Dutch
J. J. Neus	1 June 1999	Dutch
Messenger		
D. Driessen	1 April 1982	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), and again in April 1997 (see *I.C.J. Yearbook 1997-1998*, p. 265).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. *Relations with the Public*

(a) *Correspondence*

Article 26, paragraph 1 (*a*), of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, Carnegieplein 2, 2517 KJ The Hague, Netherlands* (telegraphic address: INTERCOURT THE HAGUE; Telex 32323; Telefax (3170) 364 99 28; E-mail addresses: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and for documents) and mail@icj-cij.org (other requests and comments)). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 (*n*)).

(c) *Information*

Article 26, paragraph 1 (*k*) and (*m*), of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the First Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[1].

In order to increase the availability of Court documents and reduce communication costs, the Court decided to develop a website, which was launched on 25 September 1997 in both English and French. At the time of preparation of this *Yearbook*, it featured the full text of the Court's Judgments and Orders since 1996 (posted on the day they were delivered), summaries of past decisions, most of the relevant documents in pending cases (Application or Special Agreement and written and oral pleadings), unpublished pleadings available in electronic form for cases prior to 1996, press releases, some basic documents (United Nations Charter and the Statute and Rules of the Court), declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction, general information on the Court's history and procedure, and the biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which five are available:

II and *II bis*. *Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*;

IV. *Note by the Registry indicating the Rules of Court amended on 10 May 1972*;

V. *Note by the Registry on the Revised Rules of Court (1978)*;

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[1] These publications are distinct from the publications of the Court issued by the Registry; see below, Chap. VII, pp. [illegible].

VI. *Collected unofficial summaries of decisions concerning the law of the sea (1946-1986);*

VII. *Note by the Registry indicating the Rules of Court (1978) amended on 5 December 2000.*

Also obtainable, in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, from the Registry or United Nations Information Centres, are:

a popular booklet entitled "The International Court of Justice: Questions and Answers about the Principal Judicial Organ of the United Nations" (2000), published by the United Nations Department of Public Information on co-operation with the Court. The Chinese, Dutch, English, French and Russian editions have been published; the Spanish and Arabic editions are in preparation.

a "handbook", in English and French (1996), on *The International Court of Justice*, the former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock).

unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 191-192, 199).

III. PRACTICE IN REGARD TO PROCEDURE[1]

1. *General*

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook*

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 (*f*)-(*i*), and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 (*b*), and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976).*

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

1968-1969, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-141; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; *I.C.J. Yearbook 1994-1995*, pp. 199-206; *I.C.J. Yearbook 1995-1996*, pp. 224-240; *I.C.J. Yearbook 1996-1997*, pp. 197-202; *I.C.J. Yearbook 1997-1998*, pp. 249-272; *I.C.J. Yearbook 1998-1999*, pp. 288-309; *I.C.J. Yearbook 1999-2000*, pp. 262-274, and pp. 299-313 in Chapter VI, below.

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 105-107, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5, Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

At their first meeting with the Registrar the representatives of the Parties are given a *Note Containing Recommendations to the Parties*. That Note was made public in April 1998[1]. In December 2000 that Note was modified by the Court, to expedite the proceedings on preliminary objections. (For the text of the modifications, see below, p. 196, under 3 ([illegible]).)

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

> an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward.

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[1] See *I.C.J. Yearbook 1997-1998*, pp. 254-256, and I.C.J. Press Release 98/14.

an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;

a copy, certified by him, of the pleading and annexed documents, for communication to the other party;

125 further copies of the pleading and annexed documents (75 of which should be on paper, while 50 may be on CD-ROM);

a diskette of any pleading prepared by electronic means;

in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with.

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 (*g*)).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see (*e*) below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

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[1] In the *Corfu Channel (United Kingdom v. Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia v. Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia v. South*

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see (*b*) above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12).

Africa; Liberia v. South Africa) cases, it heard witnesses and experts presented by one Party but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčíkovo-Nagymaros in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*.

Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken for a few minutes at the opening of hearings. Filming for cinema or television purposes is allowed, subject to advance notice to be given to the Court's Information Department. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see (*e*) below).

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see (*c*) above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed: one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 361-369, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 370, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 97-104, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. *Occasional Rules in Contentious Cases*

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency and the Court's decision is given in an order (Rules, Arts. 73-78)[2].

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

[2] Such provisional measures have been requested in the following 33 cases: *Anglo-Iranian Oil Co.* (*United Kingdom v. Iran*); *Interhandel* (*Switzerland v. United States of America*); *Fisheries Jurisdiction* (*United Kingdom v. Iceland*) (*Federal Republic of Germany v. Iceland*); *Nuclear Tests* (*Australia v. France*) (*New Zealand v. France*); *Trial of Pakistani Prisoners of War* (*Pakistan v. India*); *Aegean Sea Continental Shelf* (*Greece v. Turkey*); *United States Diplomatic and Consular Staff in Tehran* (*United States of America v. Iran*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*); *Frontier Dispute* (*Burkina Faso/Republic of Mali*) (case referred to a Chamber); *Border and Transborder Armed Actions* (*Nicaragua v. Honduras*) (in this case the request was withdrawn); *Arbitral Award of 31 July 1989* (*Guinea-Bissau v. Senegal*); *Passage through the Great Belt* (*Finland v. Denmark*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya v. United Kingdom*) (*Libyan Arab Jamahiriya v. United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Yugoslavia*) (in this case two requests were made by Bosnia and Herzegovina and one by Yugoslavia; *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon v. Nigeria*); *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests* (*New

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[1].

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 107, above) must be filed as soon as possible, and not later than three months after the delivery of the Memorial (Rules, Art. 79). Notwithstanding that provision the Court, following the submission of the application in a case and after the President has met and consulted with the parties, may decide that any questions of jurisdiction and admissibility shall be determined separately. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it. Preliminary objections suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment: if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[2]. The Court may also give effect to an agreement

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Eyraud (France) Case; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*; *LaGrand (Germany v. United States of America)*; in the ten cases concerning *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. Spain) (Yugoslavia v. United Kingdom) (Yugoslavia v. United States of America)*; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*; and *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*.

[1] Proceedings were joined in the following cases: *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*.

[2] The Court gave its decision on the preliminary objections raised in the following 22 cases: *Corfu Channel (United Kingdom v. Albania)*; *Ambatielos (Greece v. United Kingdom)*; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Nottebohm (Liechtenstein v. Guatemala)*; *Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)*; *Certain Norwegian Loans (France v. Norway)*; *Right of Passage over Indian Territory (Portugal v. India)*; *Interhandel (Switzerland v. United States of America)*; *Aerial Incident of 27 July 1955 (Israel v. Bulgaria)*; *Temple of Preah Vihear (Cambodia v. Thailand)*; *South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)*; *Northern Cameroons (Cameroon v. United Kingdom)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)*; *Elettronica Sicula S.p.A. (ELSI) (United States of America v. Italy)*; *Certain Phosphate Lands in Nauru (Nauru v. Australia)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)*; *Oil Platforms (Islamic Republic of Iran v. United States of America)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*; and *Aerial Incident of 10 August 1999 (Pakistan v. India)*.

between the parties that objections should be heard and determined within the framework of the merits[2].

The modifications of the Note containing recommendations to the parties, intended to expedite the proceedings on preliminary objections (cf. above, p. 190, under 2 (a) (i)), are as follows:

> A new subparagraph has been added to paragraph 3 of the Note. It reads as follows:
>
> > "E. With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, should generally not exceed four months."
>
> The last sentence of former subparagraph E of paragraph 3, which has now become subparagraph F, has been modified as follows (changes in italics):
>
> > "These provisions must of course be complied with, especially when objections of lack of jurisdiction or of inadmissibility are being considered. *In those cases, oral proceedings must be limited to statements on the objections* and *observe* the requisite degree of brevity."

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[1] Each of the respondent States in the cases concerning *Legality of Use of Force* (*Yugoslavia v. Belgium*) (*Yugoslavia v. Canada*) (*Yugoslavia v. France*) (*Yugoslavia v. Germany*) (*Yugoslavia v. Italy*) (*Yugoslavia v. Netherlands*) (*Yugoslavia v. Portugal*) (*Yugoslavia v. United Kingdom*) raised preliminary objections of lack of jurisdiction and admissibility. In other cases the Court was not called upon to give a decision on the preliminary objections either because they were withdrawn (*Rights of Nationals of the United States of America in Morocco* (*France v. United States of America*)) or as the result of a discontinuance (*Aerial Incident of 27 July 1955* (*United States of America v. Bulgaria*); *Barcelona Traction, Light and Power Company, Limited* (first application) (*Belgium v. Spain*); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient* (*France v. Lebanon*); *Aerial Incident of 3 July 1988* (*Islamic Republic of Iran v. United States of America*); *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo v. Burundi*) (*Democratic Republic of the Congo v. Rwanda*)). The Court also dealt with questions of jurisdiction or admissibility in the following 13 cases: *Appeal Relating to the Jurisdiction of the ICAO Council* (*India v. Pakistan*); *Fisheries Jurisdiction* (*United Kingdom v. Iceland*) (*Federal Republic of Germany v. Iceland*); *Nuclear Tests* (*Australia v. France*) (*New Zealand v. France*); *Aegean Sea Continental Shelf* (*Greece v. Turkey*); *United States Diplomatic and Consular Staff in Tehran* (*United States of America v. Iran*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*); *Border and Transborder Armed Actions* (*Nicaragua v. Honduras*); *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar v. Bahrain*); *East Timor* (*Portugal v. Australia*); *Fisheries Jurisdiction* (*Spain v. Canada*); and *LaGrand* (*Germany v. United States of America*). The Court did not deal with questions of jurisdiction or admissibility raised in the case concerning the *Trial of Pakistani Prisoners of War* (*Pakistan v. India*).

[2] This was done in the cases concerning *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America v. Italy*) and *East Timor* (*Portugal v. Australia*). Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans* (*France v. Norway*) and by decision of the Court in the following two cases: *Right of Passage over Indian Territory* (*Portugal v. India*); *Barcelona Traction, Light and Power Company, Limited* (*New Application: 1962*) (*Belgium v. Spain*).

(d) *Counter-claims*

Counter-claims may be presented if they are directly connected with the subject-matter of the claim of the other party and come within the jurisdiction of the Court. They are to be made by a party in its Counter-Memorial, as part of the submissions. In case of doubt, it is for the Court to decide whether a counter-claim is admissible and shall form part of the proceedings (Rules, Art. 80)[1]

(e) *Intervention; presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[2]

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[3]

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69)

(f) *Default; settlement; discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[1].

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[1] Counter-claims were made by the respondent States, and admitted by the Court, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, *Oil Platforms (Islamic Republic of Iran v. United States of America)* and *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*. They were also made, during the period under review, by the respondent State in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*.

[2] Permission to intervene was applied for in the *Nuclear Tests* cases (*Australia v. France*) (*New Zealand v. France*), in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand v. France) Case. (In that case, several States filed a document entitled "Application for Permission to Intervene under Article 62/Declaration of Intervention under Article 63"), in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)* and in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*.

[3] A third State intervened in the *Haya de la Torre (Colombia v. Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. (See also footnote 2 above.)

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[2].

(g) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 107-108). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[3,4].

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[1] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom v. Albania)*, *Assessment of Amount of Compensation*; *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*, *Interim Protection*; *Nottebohm (Liechtenstein v. Guatemala)*, *Preliminary Objection*; *Fisheries Jurisdiction (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland)*, *Interim Protection*, *Jurisdiction of the Court* and *Merits*; *Nuclear Tests (Australia v. France) (New Zealand v. France)*, *Interim Protection* and *Second Phase*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*, *Interim Protection*; *Aegean Sea Continental Shelf (Greece v. Turkey)*, *Interim Protection* and *Jurisdiction of the Court*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*, *Provisional Measures* and *Merits*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, *Merits*; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, *Jurisdiction and Admissibility*.

[2] The following 14 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France v. Egypt)*; *Electricité de Beyrouth Company (France v. Lebanon)*; *Aerial Incident of 27 July 1955 (United States of America v. Bulgaria) (United Kingdom v. Bulgaria)*; *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*; *Border and Transborder Armed Actions (Nicaragua v. Honduras)*; *Passage through the Great Belt (Finland v. Denmark)*; *Certain Phosphate Lands in Nauru (Nauru v. Australia)*; *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Rwanda)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[3] The Court gave a decision on a request for interpretation of its Judgment in the case concerning *Asylum (Colombia/Peru)* and of its Judgment on preliminary objections in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*. See also p. 107, footnote 2, and p. 108, footnote 1, above.

[4] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. An application for revision of the Court's Judgment of 11 July 1996 on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)* was made by Yugoslavia during the period under review.

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(h) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[1].

4. Procedure in Advisory Cases

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 16-21, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 108-109, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[2].

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[1] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)* in the case of that name.

[2] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. OCCASIONAL FUNCTIONS ENTRUSTED TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty may consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 (*a*) of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 2000-2001

During the period under review 26 contentious cases were pending, 22 of which remain so.

Over this period, the Court was seised of three new cases: (*a*) *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*); (*b*) *Application for Revision of the Judgment of 11 July 1996 in the case concerning* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina* v. *Yugoslavia*), Preliminary Objections (*Yugoslavia* v. *Bosnia and Herzegovina*) and (*c*) *Certain Property* (*Liechtenstein* v. *Germany*).

In each of the two cases concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi*) (*Democratic Republic of the Congo* v. *Rwanda*), the applicant State indicated that it wished to discontinue the case.

A request for the indication of provisional measures was made by the applicant State in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*).

An Application for permission to intervene was filed by the Philippines in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*).

The Court held public hearings in the *LaGrand* case, on the request for permission to intervene in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*) and on the request for the indication of provisional measures in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*). It further held a great number of private meetings. It rendered Judgments in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*) *and LaGrand* (*Germany* v. *United States of America*). It made an Order on the request for the indication of provisional measures in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*). It also made two Orders by which it removed the cases concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi*) (*Democratic Republic of the Congo* v. *Rwanda*) from the List.

The Court further made an Order authorizing an additional pleading by Cameroon relating solely to the counter-claims submitted by Nigeria in the case concerning *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria: Equatorial Guinea intervening*). It finally made Orders fixing or extending time-limits in the cases concerning *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*)

(*Yugoslavia* v. *France*), (*Yugoslavia* v. *Germany*), (*Yugoslavia* v. *Italy*), (*Yugoslavia* v. *Netherlands*), (*Yugoslavia* v. *Portugal*), (*Yugoslavia* v. *United Kingdom*), *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*) and *Certain Property* (*Liechtenstein* v. *Germany*).

The President of the Court made Orders fixing or extending time-limits in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*), (*Libyan Arab Jamahiriya* v. *United States of America*), *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*), *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*), *Ahmadou Sadio Diallo* (*Republic of Guinea* v. *Democratic Republic of the Congo*), *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi*), (*Democratic Republic of the Congo* v. *Rwanda*) and *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*).

The Vice-President, Acting President, made Orders fixing time-limits in the cases concerning *Legality of Use of Force* (*Yugoslavia* v. *Belgium*), (*Yugoslavia* v. *Canada*), (*Yugoslavia* v. *France*), (*Yugoslavia* v. *Germany*), (*Yugoslavia* v. *Italy*), (*Yugoslavia* v. *Netherlands*), (*Yugoslavia* v. *Portugal*), (*Yugoslavia* v. *United Kingdom*).

The Court further adopted amendments to Articles 79 and 80 of its Rules (see above, pp. 3-4).

I. CASES BEFORE THE COURT

1. *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*)

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the

Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

Qatar chose Mr. José Maria Ruda and Bahrain Mr. Nicolas Valticos to sit as judges *ad hoc*. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge *ad hoc*.

Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain.

At a public sitting held on 1 July 1994, the Court delivered a Judgment (*I.C.J. Reports 1994*, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

Judge Shahabuddeen appended a declaration to the Judgment; Vice-President Schwebel and Judge *ad hoc* Valticos appended separate opinions; and Judge Oda appended a dissenting opinion.

On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994". On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994".

In view of those communications, the Court resumed dealing with the case.

At a public sitting held on 15 February 1995, the Court delivered a Judgment on jurisdiction and admissibility (*I.C.J. Reports 1995*, p. 6) by which it found that it had jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain and that the Application of the State of Qatar as formulated on 30 November 1994 was admissible.

Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge *ad hoc* Valticos appended dissenting opinions to the Judgment.

Judge *ad hoc* Valticos resigned as of the end of the jurisdiction and admissibility phase of the proceedings.

By an Order of 28 April 1995 (*I.C.J. Reports 1995*, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996 (*I.C.J. Reports 1996*, p. 6), extended that time-limit to 30 September 1996. The two Memorials were filed within the thus extended time-limit.

By an Order of 30 October 1996 (*I.C.J. Reports 1996*, p. 800), the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits.

As Judge *ad hoc* Valticos had resigned, Bahrain chose Mr. Mohamed Shahabuddeen to sit as judge *ad hoc*. After Judge *ad hoc* Shahabuddeen had, in his turn, resigned, Bahrain chose Mr. Yves L. Fortier to sit as judge *ad hoc*.

By a letter dated 25 September 1997 Bahrain informed the Court that it challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial. Accordingly, Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial.

By a letter of 8 October 1997, Qatar stated that the objections raised by Bahrain had come too late to answer them in its Memorial. Bahrain then stated that the use by Qatar of the challenged documents gave rise to procedural difficulties that could affect the orderly development of the case. It observed that the question of the authenticity of the said documents was "logically preliminary to . . . the determination of their substantive effect". After the filing of the Counter-Memorials on 23 December 1997, Bahrain also challenged the authenticity of a further document annexed to Qatar's Counter-Memorial. Furthermore, it emphasized again the need for the Court to decide the question of the documents' authenticity as a preliminary issue.

In view of this the Court, by an Order of 30 March 1998 (*I.C.J. Reports 1998*, p. 243), directed that each of the Parties submit a Reply on the merits by 30 March 1999. It also decided that Qatar should file by 30 September 1998 an interim report, to be as comprehensive and specific as possible, on the question of the authenticity of each of the disputed documents. The Court specified that Qatar's Reply should contain its detailed and definitive position on the question and that Bahrain's Reply should contain its observations on Qatar's interim report.

In the interim report that it submitted on 30 September 1998, Qatar announced that for the purposes of the case, it would not rely on the disputed documents. In that report, to which four experts' reports were appended, Qatar stated on the one hand that, on the question of the material authenticity of the documents, there were differing views not only between the respective experts of the Parties, but also between its own experts, and on the other that, as far as the historical consistency of the content of those documents was concerned, the experts that it had consulted considered that Bahrain's assertions contained exaggerations and distortions of the facts. Qatar stated that it had taken its decision "so as to enable the Court to address the merits of the case without further procedural complications".

By an Order dated 17 February 1999 (*I.C.J. Reports 1999*, p. 3), the Court placed on record the decision of Qatar to disregard the 82 documents annexed to its written pleadings which had been challenged by Bahrain and it accordingly decided that the Replies yet to be filed by Qatar and by Bahrain would not rely on these documents. The Court granted a two-month extension of the time-limit for the submission of these Replies (which was accordingly set for 30 May 1999) following a request by Qatar, to which Bahrain had no objection.

After filing their Replies within the extended time-limit, Qatar and Bahrain have submitted, with the approval of the Court, certain additional expert reports and historical documents.

Public sittings to hear the oral arguments of the Parties were held from 29 May to 29 June 2000.

At the conclusion of those hearings Qatar requested the Court, rejecting all contrary claims and submissions,

"I. To adjudge and declare in accordance with international law:

A. (1) that the State of Qatar has sovereignty over the Hawar Islands;

(2) that Dibal and Qit'at Jaradah shoals are low-tide elevations which are under Qatar's sovereignty;

B. (1) that the State of Bahrain has no sovereignty over the island of Janan;

(2) that the State of Bahrain has no sovereignty over Zubarah;

(3) that any claim by Bahrain concerning archipelagic baselines

and areas for fishing for pearls and swimming fish would be irrelevant for the purpose of maritime delimitation in the present case;

II. To draw a single maritime boundary between the maritime areas of seabed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain on the basis that Zubarah, the Hawar Islands and the island of Janan appertain to the State of Qatar and not to the State of Bahrain, that boundary starting from point 2 of the delimitation agreement concluded between Bahrain and Iran in 1971 (51 05'54"E and 27 02'47"N), thence proceeding in a southerly direction up to BLV (50 57'30"E and 26 33'35"N), then following the line of the British decision of 23 December 1947 and up to NSLB (50 49'48"E and 26 21'24"N) and up to point L (50 43'00"E and 25 47'27"N), thence proceeding to point S1 of the delimitation agreement concluded by Bahrain and Saudi Arabia in 1958 (50 31'45"E and 25 35'38"N)."

The final submissions of Bahrain read as follows:

"*May it please the Court*, rejecting all contrary claims and submissions, to adjudge and declare that:

1. Bahrain is sovereign over Zubarah.
2. Bahrain is sovereign over the Hawar Islands, including Janan and Hadd Janan.
3. In view of Bahrain's sovereignty over all the insular and other features, including Fasht ad Dibal and Qit'at Jaradah, comprising the Bahraini archipelago, the maritime boundary between Bahrain and Qatar is as described in Part Two of Bahrain's Memorial."

At a public sitting held on 16 March 2001, the Court delivered its Judgment, a summary of which is given below, followed by the text of the operative paragraph:

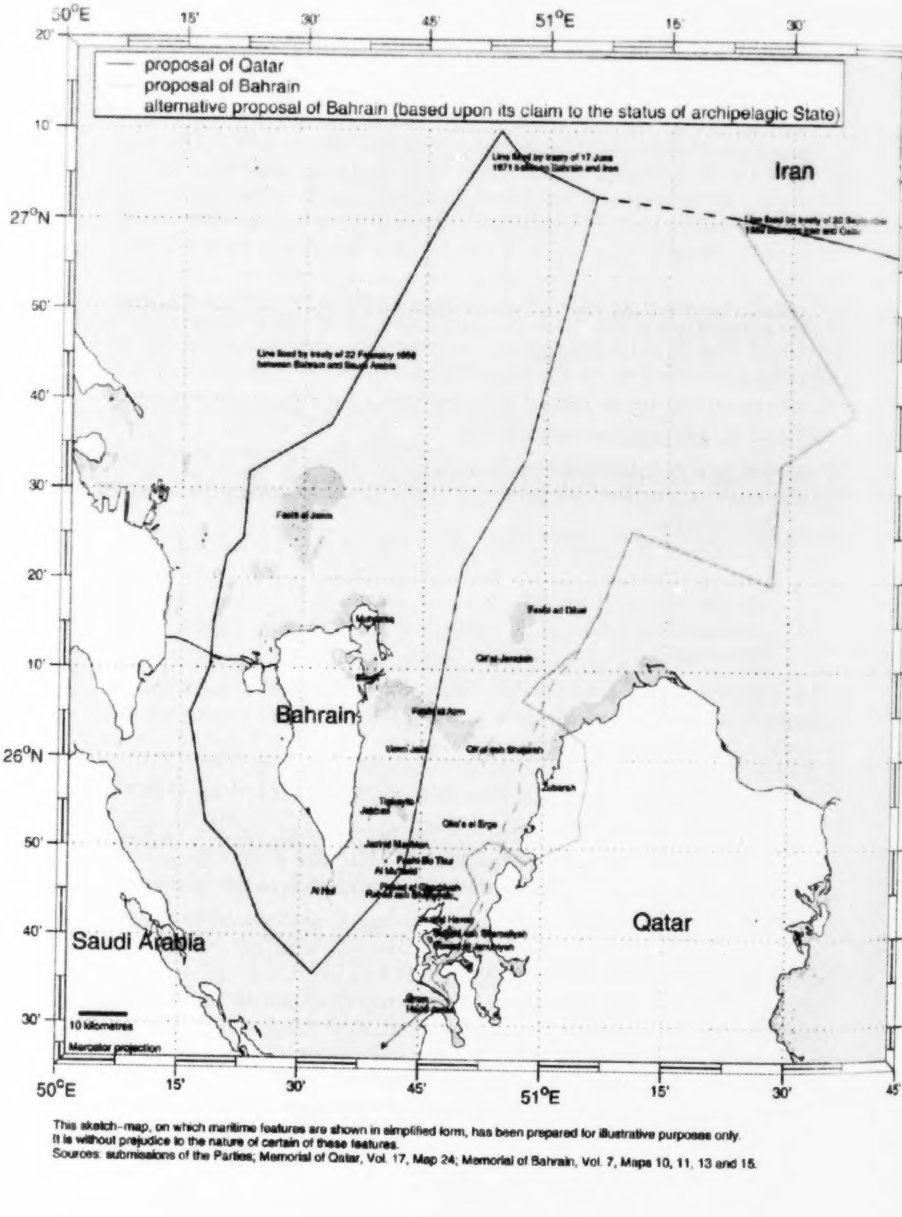
History of the proceedings and submissions of the Parties (paras. 1-34)

The Court first recalls the history of the proceedings and the submissions of the Parties as set out hereabove. (For the delimitation lines proposed by each of the Parties, see sketch-map No. 2 of the Judgment, reproduced on next page.)

Geographical setting (para. 35)

The Court notes that the State of Qatar and the State of Bahrain are both located in the southern part of the Arabian/Persian Gulf (hereinafter referred to as "the Gulf"), almost halfway between the mouth of the Shatt al Arab, to the north-west, and the Strait of Hormuz, at the Gulf's eastern end, to the north of Oman. The mainland to the west and south

SKETCH-MAP No. 2
Lines proposed by Qatar and Bahrain


proposal of Qatar
proposal of Bahrain
alternative proposal of Bahrain (based upon its claim to the status of archipelagic State)
50°E
15'
30'
45'
51°E
15'
30'
45'
20'
10'
27°N
50'
40'
30'
20'
10'
26°N
50'
40'
30'
Iran
Bahrain
Qatar
Saudi Arabia
Line fixed by treaty of 17 June 1971 between Bahrain and Iran
Line fixed by treaty of 22 February 1958 between Bahrain and Saudi Arabia
Fasht al Jarim
Muharraq
Fasht ad Dibal
Qit'at Jaradah
Fasht al Azm
Umm Jalid
Qit'at ash Shajarah
Zubarah
Qita'a el Erge
Jazirat Mashtan
Al Hal
10 kilometres
Mercator projection

This sketch-map, on which maritime features are shown in simplified form, has been prepared for illustrative purposes only. It is without prejudice to the nature of certain of these features.
Sources: submissions of the Parties; Memorial of Qatar, Vol. 17, Map 24; Memorial of Bahrain, Vol. 7, Maps 10, 11, 13 and 15.

of the main island of Bahrain and to the south of the Qatar peninsula is part of the Kingdom of Saudi Arabia. The mainland on the northern shore of the Gulf is part of Iran.

The Qatar peninsula projects northward into the Gulf, on the west from the bay called Dawhat Salwah, and on the east from the region lying to the south of Khor al-Udaid. The capital of the State of Qatar, Doha, is situated on the eastern coast of the peninsula.

Bahrain is composed of a number of islands, islets and shoals situated off the eastern and western coasts of its main island, which is also called al-Awal Island. The capital of the State of Bahrain, Manama, is situated in the north-eastern part of al-Awal Island.

Zubarah is located on the north-west coast of the Qatar peninsula, opposite the main island of Bahrain.

The Hawar Islands are located in the immediate vicinity of the central part of the west coast of the Qatar peninsula, to the south-east of the main island of Bahrain and at a distance of approximately 10 nautical miles from the latter.

Janan is located off the south-western tip of Hawar Island proper.

Fasht ad Dibal and Qit'at Jaradah are two maritime features located off the north-western coast of the Qatar peninsula and to the north-east of the main island of Bahrain.

Historical context (paras. 36-69)

The Court then gives a brief account of the complex history which forms the background to the dispute between the Parties (only parts of which are referred to below).

Navigation in the Gulf was traditionally in the hands of the inhabitants of the region. From the beginning of the sixteenth century, European powers began to show interest in the area, which lay along one of the trading routes with India. Portugal's virtual monopoly of trade was not challenged until the beginning of the seventeenth century. Great Britain was then anxious to consolidate its presence in the Gulf to protect the growing commercial interests of the East India Company.

Between 1797 and 1819 Great Britain despatched numerous punitive expeditions in response to acts of plunder and piracy by Arab tribes led by the Qawasim against British and local ships. In 1819, Great Britain took control of Ras al Khaimah, headquarters of the Qawasim, and signed separate agreements with the various sheikhs of the region. These sheikhs undertook to enter into a General Treaty of Peace. By this Treaty, signed in January 1820, these sheikhs and chiefs undertook on behalf of themselves and their subjects *inter alia* to abstain for the future from plunder and piracy. It was only towards the end of the nineteenth century that Great Britain would adopt a general policy of protection in the Gulf, concluding "exclusive agreements" with most sheikhdoms, including those of Bahrain, Abu Dhabi, Sharjah and Dubai. Representation of British interests in the region was entrusted to a British Political Resident in the Gulf, installed in Bushire (Persia), to whom British Political Agents were subsequently subordinated in various sheikhdoms with which Great Britain had concluded agreements.

On 31 May 1861 the British Government signed a "Perpetual treaty of peace and friendship" with Sheikh Mahomed bin Khalifah, referred to in the treaty as independent Ruler of Bahrain. Under this treaty, Bahrain undertook *inter alia* to refrain from all maritime aggression of every description, while Great Britain undertook to provide Bahrain with the necessary support in the maintenance of security of its possessions against aggression. There was no provision in this treaty defining the extent of these possessions.

Following hostilities on the Qatar peninsula in 1867, the British Political Resident in the Gulf approached Sheikh Ali bin Khalifah, Chief of Bahrain, and Sheikh Mohamed Al-Thani, Chief of Qatar, and, on 6 and 12 September 1868 respectively, occasioned each to sign an agreement with Great Britain. By these agreements, the Chief of Bahrain recognized *inter alia* that certain acts of piracy had been committed by Mahomed bin Khalifah, his predecessor, and, "[i]n view of preserving the peace at sea, and precluding the occurrence of further disturbance and in order to keep the Political Resident informed of what happens", he promised to appoint an agent with the Political Resident; for his part, the Chief of Qatar undertook *inter alia* to return to and reside peacefully in Doha, not to put to sea with hostile intention, and, in the event of disputes or misunderstanding arising, invariably to refer to the Political Resident. According to Bahrain, the "events of 1867-1868" demonstrate that Qatar was not independent from Bahrain. According to Qatar, on the contrary, the 1868 Agreements formally recognized for the first time the separate identity of Qatar.

While Great Britain had become the dominant maritime Power in the Gulf by this time, the Ottoman Empire, for its part, had re-established its authority over extensive areas of the land on the southern side of the Gulf. In the years following the arrival of the Ottomans on the Qatar peninsula, Great Britain further increased its influence over Bahrain. On 29 July 1913, an Anglo-Ottoman "Convention relating to the Persian Gulf and surrounding territories" was signed, but it was never ratified. Section II of this Convention dealt with Qatar. Article 11 described the course of the line which, according to the agreement between the parties, was to separate the Ottoman *Sanjak* of Nejd from the "peninsula of al-Qatar". Qatar points out that the Ottomans and the British had also signed, on 9 March 1914, a treaty concerning the frontiers of Aden, which was ratified that same year and whose Article III provided that the line separating Qatar from the *Sanjak* of Nejd would be "in accordance with Article 11 of the Anglo-Ottoman Convention of 29 July 1913 relating to the Persian Gulf and the surrounding territories". Under a treaty concluded on 3 November 1916 between Great Britain and the Sheikh of Qatar, the Sheikh of Qatar bound himself *inter alia* not to "have relations nor correspond with, nor receive the agent of, any other

Power without the consent of the High British Government"; nor, without such consent, to cede to any other Power or its subjects, land; nor, without such consent, to grant any monopolies or concessions. In return, the British Government undertook to protect the Sheikh of Qatar and to grant its "good offices" should the Sheikh or his subjects be assailed by land within the territories of Qatar. There was no provision in this treaty defining the extent of those territories.

On 29 April 1936 the representative of Petroleum Concessions Ltd. wrote to the British India Office, which had responsibility for relations with the protected States in the Gulf, drawing its attention to a Qatar oil concession of 17 May 1935 and observing that the Ruler of Bahrain, in his negotiations with Petroleum Concessions Ltd., had laid claim to Hawar; he accordingly enquired to which of the two Sheikhdoms (Bahrain or Qatar) Hawar belonged. On 14 July 1936, Petroleum Concessions Ltd. was informed by the India Office that it appeared to the British Government that Hawar belonged to the Sheikh of Bahrain. The content of those communications was not conveyed to the Sheikh of Qatar.

In 1937, Qatar attempted to impose taxation on the Naim tribe inhabiting the Zubarah region; Bahrain opposed this as it claimed rights over this region. Relations between Qatar and Bahrain deteriorated. Negotiations between the two States started in spring of 1937 and were broken off in July of that year.

Qatar alleges that Bahrain clandestinely and illegally occupied the Hawar Islands in 1937. Bahrain maintains that its Ruler was simply performing legitimate acts of continuing administration in his own territory. By a letter dated 10 May 1938, the Ruler of Qatar protested to the British Government against what he called "the irregular action taken by Bahrain against Qatar", to which he had already referred in February 1938 in a conversation in Doha with the British Political Agent in Bahrain. On 20 May 1938, the latter wrote to the Ruler of Qatar, inviting him to state his case on Hawar at the earliest possible moment. The Ruler of Qatar responded by a letter dated 27 May 1938. Some months later, on 3 January 1939, Bahrain submitted a counter-claim. In a letter of 30 March 1939, the Ruler of Qatar presented his comments on Bahrain's counter-claim to the British Political Agent in Bahrain. The Rulers of Qatar and Bahrain were informed on 11 July 1939 that the British Government had decided that the Hawar Islands belonged to Bahrain.

In May 1946, the Bahrain Petroleum Company Ltd. sought permission to drill in certain areas of the continental shelf, some of which the British considered might belong to Qatar. The British Government decided that this permission could not be granted until there had been a division of the sea-bed between Bahrain and Qatar. It studied the matter and, on 23 December 1947, the British Political Agent in Bahrain sent the Rulers of Qatar and Bahrain two letters, in the same terms, showing the line which, the British Government considered divided "in accordance with equitable principles the sea-bed aforesaid". The letter indicated further that the Sheikh of Bahrain had sovereign rights in the areas of the Dibal and Jaradah shoals (which should not be considered to be islands having territorial waters), as well as over the islands Hawar group while noting that Janan Island was not regarded as being included in the islands of the Hawar group.

In 1971 Qatar and Bahrain ceased to be British protected States. On 21 September 1971, they were both admitted to the United Nations.

Beginning in 1976, mediation, also referred to as "good offices", was conducted by the King of Saudi Arabia with the agreement of the Amirs of Bahrain and Qatar. The good offices of King Fahd did not lead to the desired outcome and on 8 July 1991 Qatar instituted proceedings before the Court against Bahrain.

Sovereignty over Zubarah (paras. 70-97)

The Court notes that both Parties agree that the Al-Khalifah occupied Zubarah in the 1760s and that, some years later, they settled in Bahrain, but that they disagree as to the legal situation which prevailed thereafter and which culminated in the events of 1937. In the Court's view, the terms of the 1868 Agreement between and Great Britain and the Sheikh of Bahrain (see above) show that any attempt by Bahrain to pursue its claims to Zubarah through military action at sea would not be tolerated by the British. The Court finds that thereafter the new rulers of Bahrain were never in a position to engage in direct acts of authority in Zubarah. Bahrain maintains, however, that the Al-Khalifah continued to exercise control over Zubarah through a Naim-led tribal confederation loyal to them, notwithstanding that at the end of the eighteenth century they had moved the seat of their government to the islands of Bahrain. The Court does not accept this contention.

The Court considers that, in view of the role played by Great Britain and the Ottoman Empire in the region, it is significant to note Article 11 of the Anglo-Ottoman Convention signed on 29 July 1913, which states *inter alia*: "it is agreed between the two Governments that the said peninsula will, as in the past, be governed by the Sheikh Jasim-bin-Sani and his successors". Thus Great Britain and the Ottoman Empire did not recognize Bahrain's sovereignty over the peninsula, including Zubarah. In their opinion the whole Qatar peninsula would continue to be governed by Sheikh Jassim Al-Thani, who had formerly been nominated *kaimakam* by the Ottomans, and by his successors. Both Parties agree that the 1913 Anglo-Ottoman Convention was never ratified; they differ on the other hand as to its value as evidence of Qatar's sovereignty over the peninsula. The Court observes that signed but unratified treaties may constitute an accurate expression of the understanding of the parties at the time of signature. In the circumstances of this case the Court has come to the conclusion that the Anglo-Ottoman Convention does represent evidence of the views of Great Britain and the Ottoman Empire as to the factual extent of the authority of the Al-Thani Ruler in Qatar up to 1913. The Court also observes that Article 11 of the 1913 Convention is referred to by Article III of the subsequent Anglo-Ottoman treaty of 9 March 1914, duly ratified that same year. The parties to that treaty therefore did not contemplate any authority over the peninsula other than that of Qatar.

The Court then examines certain events which took place in Zubarah in 1937, after the Sheikh of Qatar had attempted to impose taxation on the Naim. It notes, *inter alia*, that on 5 May 1937, the Political Resident reported on those incidents to the Secretary of State for India, stating that he was "[p]ersonally, therefore, . . . of the opinion that juridically the Bahrain claim to Zubarah must fail". In a telegram of 15 July 1937 to the Political Resident, the British Secretary of State indicated that the Sheikh of Bahrain should be informed that the British Government regretted that it was "not prepared to intervene between Sheikh of Qatar and Naim tribe".

In view of the foregoing, the Court finds that it cannot accept Bahrain's contention that Great Britain had always regarded Zubarah as belonging to Bahrain. The terms of the 1868 agreement between the British Government and the Sheikh of Bahrain, of the 1913 and 1914 conventions and of the letters in 1937 from the British Political Resident to the Secretary of State for India, and from the Secretary of State to the Political Resident, all show otherwise. In effect, in 1937 the British Government did not consider that Bahrain had sovereignty over Zubarah; it is for this reason that it refused to provide Bahrain with the assistance which it requested on the basis of the agreements in force between the two countries. In the period after 1868, the authority of the Sheikh of Qatar over the territory of Zubarah was gradually consolidated; it was acknowledged in the 1913 Anglo-Ottoman Convention and was definitively established in 1937. The actions of the Sheikh of Qatar in Zubarah that year were an exercise of his authority on his territory and, contrary to what Bahrain has alleged, were not an unlawful use of force against Bahrain. For all these reasons, the Court concludes that the first submission made by Bahrain cannot be upheld and that Qatar has sovereignty over Zubarah.

Sovereignty over the Hawar Islands (paras. 98-148)

The Court then turns to the question of sovereignty over the Hawar Islands, leaving aside the question of Janan for the moment.

The Court observes that the Parties' lengthy arguments on the issue of sovereignty over the Hawar Islands raise several legal issues: the nature and validity of the 1939 decision by Great Britain; the existence of an original title; *effectivités*; and the applicability of the principle of *uti possidetis juris* to the present case. The Court begins by considering the nature and validity of the 1939 British decision. Bahrain maintains that the British decision of 1939 must be considered primarily as an arbitral award, which is *res judicata*. It claims that the Court does not have jurisdiction to review the award of another tribunal, basing its proposition on decisions of the Permanent Court of International Justice and the present Court. Qatar denies the relevance of the judgments cited by Bahrain. It contends that

> "[N]one of them are in the slightest degree relevant to the issue which the Court has to determine in the present case, namely whether the procedures followed by the British Government in 1938 and 1939 amounted to a process of arbitration which could result in an arbitral award binding upon the parties."

The Court first considers the question whether the 1939 British decision must be deemed to constitute an arbitral award. It observes in this respect that the word arbitration, for purposes of public international law, usually refers to "the settlement of differences between States by judges of their own choice, and on the basis of respect for law" and that this wording was reaffirmed in the work of the International Law Commission, which reserved the case where the parties might have decided that the requested decision should be taken *ex æquo et bono*. The Court observes that in the present case no agreement existed between the Parties to submit their case to an arbitral tribunal made up of judges chosen by them, who would rule either on the basis of law or *ex æquo et bono*. The Parties had only agreed that the issue would be decided by "His Majesty's Government", but left it to the latter to determine how that decision would be arrived at, and by which officials. It follows that the decision whereby, in 1939, the British Government held that the Hawar Islands belonged to Bahrain, did not constitute an international arbitral award. The Court finds that it does not therefore need to consider Bahrain's argument concerning the Court's jurisdiction to examine the validity of arbitral awards.

The Court observes, however, that the fact that a decision is not an arbitral award does not mean that the decision is devoid of legal effect. In order to determine the legal effect of the 1939 British decision, it then recalls the events which preceded and immediately followed its adoption. Having done so, the Court considers Qatar's argument challenging the validity of the 1939 British decision.

Qatar first contends that it never gave its consent to have the question of the Hawar Islands decided by the British Government.

The Court observes, however, that following the Exchange of Letters of 10 and 20 May 1938, the Ruler of Qatar consented on 27 May 1938 to entrust decision of the Hawar Islands question to the British Government. On that day he had submitted his complaint to the British Political Agent. Finally, like the Ruler of Bahrain, he had consented to participate in the proceedings that were to lead to the 1939 decision. The jurisdiction of the British Government to take the decision concerning the Hawar Islands derived from these two consents; the Court therefore has no need to examine whether, in the absence of such consent, the British Government would have had the authority to do so under the treaties making Bahrain and Qatar protected States of Great Britain.

Qatar maintains in the second place that the British officials responsible for the Hawar Islands question were biased and had prejudged the matter. The procedure followed is accordingly alleged to have violated "the rule which prohibits bias in a decision-maker on the international plane". It is also claimed that the parties were not given an equal and fair opportunity to present their arguments and that the decision was not reasoned.

The Court begins by recalling that the 1939 decision is not an arbitral award made upon completion of arbitral proceedings. This does not, however, mean that it was devoid of all legal effect. Quite to the contrary, the pleadings, and in particular the Exchange of Letters referred to above, shows that Bahrain and Qatar consented to the British Government settling their dispute over the Hawar Islands. The 1939 decision must therefore be regarded as a decision that was binding from the outset on both States and continued to be binding on those same States after 1971, when they ceased to be British protected States. The Court further observes that while it is true that the competent British officials proceeded on the premise that Bahrain possessed prima facie title to the islands and that the burden of proving the opposite lay on the Ruler of Qatar, Qatar cannot maintain that it was contrary to justice to proceed on the basis of this premise when Qatar had been informed before agreeing to the procedure that this would occur and had consented to the proceedings being conducted on that basis. During those proceedings the two Rulers were able to present their arguments and each of them was afforded an amount of time which the Court considers was sufficient for this purpose; Qatar's contention that it was subjected to unequal treatment therefore cannot be upheld. The Court also notes that, while the reasoning supporting the 1939 decision was not communicated to the Rulers of Bahrain and Qatar, this lack of reasons has no influence on the validity of the decision taken, because no obligation to state reasons had been imposed on the British Government when it was entrusted with the settlement of the matter. Therefore, Qatar's contention that the 1939 British decision is invalid for lack of reasons cannot be upheld. Finally, the fact that the Sheikh of Qatar had protested on several occasions against the content of the British decision of 1939 after he had been informed of it is not such as to render the decision unopposable to him, contrary to what Qatar maintains. The Court accordingly concludes that the decision taken by the British Government on 11 July 1939 is binding on the parties. For all of these reasons, the Court concludes that Bahrain has sovereignty over the Hawar Islands, and that the submissions of Qatar on this question cannot be upheld. The Court finally observes that the conclusion thus reached by it on the basis of the British decision of 1939 makes it unnecessary for the Court to rule on the arguments of the Parties based on the existence of an original title, *effectivités*, and the applicability of the principle of *uti possidetis juris* to the present case.

Sovereignty over Janan Island (paras. 149-165)

The Court then considers the Parties' claims to Janan Island. It begins by observing that Qatar and Bahrain have differing ideas of what should be understood by the expression "Janan Island". According to Qatar, "Janan is an island approximately 700 metres long and 175 metres wide situated off the southwestern tip of the main Hawar island . . .". For Bahrain, the term covers "two islands, situated between one and two nautical miles off the southern coast of Jazirat Hawar, which merge into a single island at low tide . . .". After examination of the arguments of the Parties, the Court considers itself entitled to treat Janan and Hadd Janan as one island.

The Court then, as it has done in regard to the Parties' claims to the Hawar Islands, begins by considering the effects of the British decision of 1939 on the question of sovereignty over Janan Island. As has already been stated, in that decision the British Government concluded that the Hawar Islands "belong[ed] to the State of Bahrain and not to the State of Qatar". No mention was made of Janan Island. Nor was it specified what was to be understood by the expression "Hawar Islands". The Parties have accordingly debated at length over the issue of whether Janan fell to be regarded as part of the Hawar Islands and whether, as a result, it pertained to Bahrain's sovereignty by virtue of the 1939 decision or whether, on the contrary, it was not covered by that decision.

In support of their respective arguments, Qatar and Bahrain have each cited documents both anterior and posterior to the British decision of 1939. Qatar has in particular relied on a "decision" by the British Government in 1947 relating to the sea-bed delimitation between the two States. Bahrain recalled that it had submitted four lists to the British Government — in April 1936, August 1937, May 1938 and July 1946 — with regard to the composition of the Hawar Islands.

The Court notes that the three lists submitted prior to 1939 by Bahrain to the British Government with regard to the composition of the Hawar group are not identical. In particular, Janan Island appears by name in only one of those three lists. As to the fourth list, which is different from the three previous ones, it does make express reference to Janan Island, but it was submitted to the British Government only in 1946, several years after the adoption of the 1939 decision. Thus, no definite conclusion may be drawn from these various lists.

The Court then considers the letters sent on 23 December 1947 by the British Political Agent in Bahrain to the Rulers of Qatar and Bahrain. By those letters the Political Agent acting on behalf of the British Government informed the two States of the delimitation of their seabeds effected by the British Government. This Government, which had been responsible for the 1939 decision on the Hawar Islands, sought, in the last sentence of subparagraph 4 (ii) of these letters, to make it clear that "Janan Island is not regarded as being included in the islands of the Hawar group". The British Government accordingly did not "recognize" the Sheikh of Bahrain as having "sovereign rights" over that island and, in determining the points fixed in paragraph 5 of those letters, as well as in drawing the map enclosed with those letters, it regarded Janan as belonging to Qatar. The Court considers that the British Government, in thus proceeding, provided an authoritative interpretation of the 1939 decision and of the situation resulting from it. Having regard to all of the foregoing, the Court does not accept Bahrain's argument that in 1939 the British Government recognized "Bahrain's sovereignty over Janan as part of the Hawars". It finds that Qatar has sovereignty over Janan Island including Hadd Janan, on the basis of the decision taken by the British Government in 1939, as interpreted in 1947.

Maritime delimitation (paras. 166-250)

The Court then turns to the question of the maritime delimitation.

It begins by taking note that the Parties are in agreement that the Court should render its decision on the maritime delimitation in accordance with international law. Neither Bahrain nor Qatar is party to the Geneva Conventions on the Law of the Sea of 29 April 1958; Bahrain has ratified the United Nations Convention on the Law of the Sea of 10 December 1982 but Qatar is only a signatory to it. The Court indicates that customary international law, therefore, is the applicable law. Both Parties, however, agree that most of the provisions of the 1982 Convention which are relevant for the present case reflect customary law.

A single maritime boundary (paras. 168-173)

The Court notes that, under the terms of the "Bahraini formula", the Parties requested the Court, in December 1990, "to draw a single maritime boundary between their respective maritime areas of seabed, subsoil and superjacent waters".

The Court observes that it should be kept in mind, that the concept of "single maritime boundary" may encompass a number of functions. In the present case the single maritime boundary will be the result of the delimitation of various jurisdictions. In the southern part of the delimitation area, which is situated where the coasts of the Parties are opposite to each other, the distance between these coasts is nowhere more than 24 nautical miles. The boundary the Court is expected to draw will, therefore, delimit exclusively their territorial seas and, consequently, an area over which they enjoy territorial sovereignty. More to the north, however, where the coasts of the two States are no longer opposite to each other but are rather comparable to adjacent coasts, the delimitation to be carried out will be one between the continental shelf and exclusive economic zone belonging to each of the Parties, areas in which States have only sovereign rights and functional jurisdiction. Thus both Parties have differentiated between a southern and a northern sector.

The Court further observes that the concept of a single maritime boundary does not stem from multilateral treaty law but from State practice, and that it finds its explanation in the wish of States to establish one uninterrupted boundary line delimiting the various — partially coincident — zones of maritime jurisdiction appertaining to them. In the case of coincident jurisdictional zones, the determination of a single boundary for the different objects of delimitation

> "can only be carried out by the application of a criterion, or combination of criteria, which does not give preferential treatment to one of these . . . objects to the detriment of the other and at the same time is such as to be equally suitable to the division of either of them",

as was stated by the Chamber of the Court in the *Gulf of Maine* case. In that case, the Chamber was asked to draw a single line which would delimit both the continental shelf and the superjacent water column.

Delimitation of the territorial sea (paras. 174-223)

Delimitation of territorial seas does not present comparable problems, since the rights of the coastal State in the area concerned are not functional but territorial, and entail sovereignty over the sea-bed and the superjacent waters and air column. Therefore, when carrying out that part of its task, the Court has to apply in the present case first and foremost the principles and rules of international customary law which refer to the delimitation of the territorial sea, while taking into account that its ultimate task is to draw a single maritime boundary that serves other purposes as well. The Parties agree that the provisions of Article 15 of the 1982 Convention on the Law of the Sea, headed "Delimitation of the territorial sea between States with opposite or adjacent coasts", are part of customary law. This Article provides:

> "Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest point on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith."

The Court notes that Article 15 of the 1982 Convention is virtually identical to Article 12, paragraph 1, of the 1958 Convention on the Territorial Sea and the Contiguous Zone, and is to be regarded as having a customary character. It is often referred to as the "equidistance special circumstances" rule. The most logical and widely practised approach is first to draw provisionally an equidistance line and then to consider whether that line must be adjusted in the light of the existence of special circumstances. The Court explains that once it has delimited the territorial seas belonging to the Parties, it will determine the rules and principles of customary law to be applied to the delimitation of the Parties' continental shelves and their exclusive economic zones or fishery zones. The Court will further decide whether the method to be chosen for this delimitation differs from or is similar to the approach just outlined.

The equidistance line (paras. 177-216)

The Court begins by noting that the equidistance line is the line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. This line can only be drawn when the baselines are known. Neither of the Parties has as yet specified the baselines which are to be used for the determination of the breadth of the territorial sea, nor have they produced official maps or charts which reflect such baselines. Only during the present proceedings have they provided the Court with approximate basepoints which in their view could be used by the Court for the determination of the maritime boundary.

The relevant coasts (paras. 178-216)

The Court indicates that it will therefore first determine the relevant coasts of the Parties, from which will be determined the location of the baselines, and the pertinent basepoints from which enable the equidistance line to be measured.

Qatar has argued that, for purposes of this delimitation, it is the mainland-to-mainland method which should be applied in order to construct the equidistance line. It claims that the notion of "mainland" applies both to the Qatar peninsula, which should be understood as including the main Hawar island, and to Bahrain, of which the islands to be taken into consideration are al-Awal (also called Bahrain Island), together with al-Muharraq and Sitrah. For Qatar, application of the mainland-to-mainland method has two main consequences. First, it takes no account of the islands (except for the above-mentioned islands, Hawar on the Qatar side and al-Awal, al-Muharraq and Sitrah on the Bahrain side), islets, rocks, reefs or low-tide elevations lying in the relevant area. Second, in Qatar's view, application of the mainland-to-mainland method of calculation would also mean that the equidistance line has to be constructed by reference to the high-water line.

Bahrain contends that it is a *de facto* archipelago or multiple-island State, characterized by a variety of maritime features of diverse character and size. All these features are closely interlinked and together they constitute the State of Bahrain; reducing that State to a limited number of so-called "principal" islands would be a distortion of reality and a refashioning of geography. Since it is the land which determines maritime rights, the relevant basepoints are situated on all those maritime features over which Bahrain has sovereignty. Bahrain further contends that, according to conventional and customary international law, it is the low-water line which is determinative for the breadth of the territorial sea and for the delimitation of overlapping territorial waters. Finally, Bahrain has stated that, as a *de facto* archipelagic State, it is entitled to declare itself an archipelagic State under Part IV of the 1982 Law of the Sea Convention and to draw the permissive baselines of Article 47 of that Convention, i.e., "straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago". Qatar has contested Bahrain's claim that it is entitled to declare itself an archipelagic State under Part IV of the 1982 Convention.

With regard to Bahrain's claim the Court observes that Bahrain has not made this claim one of its formal submissions and that the Court is therefore not requested to take a position on this issue. What the Court, however, is called upon to do is to draw a single maritime boundary in accordance with international law. The Court can carry out this delimitation only by applying those rules and principles of customary law which are pertinent under the prevailing circumstances. It emphasizes that its decision will have binding force between the Parties, in accordance with Article 59 of the Statute of the Court, and consequently could not be put in issue by the unilateral action of either of the Parties, and in particular, by any decision of Bahrain to declare itself an archipelagic State.

The Court, therefore, turns to the determination of the relevant coasts from which the breadth of the territorial seas of the Parties is measured. In this respect the Court recalls that under the applicable rules of international law the normal baseline for measuring this breadth is the low-water line along the coast (Art. 5, 1982 Convention on the Law of the Sea).

In previous cases the Court has made clear that maritime rights derive from the coastal State's sovereignty over the land, a principle which can be summarized as "the land dominates the sea". It is thus the terrestrial territorial situation that must be taken as starting point for the determination of the maritime rights of a coastal State. In order to determine what constitutes Bahrain's relevant coasts and what are the relevant baselines on the Bahraini side, the Court must first establish which islands come under Bahraini sovereignty. The Court recalls that it has concluded that the Hawar Islands belong to Bahrain and that Janan belongs to Qatar. It observes that other islands which can be identified in the delimitation area which are relevant for delimitation purposes in the southern sector are Jazirat Mashtan and Umm Jalid, islands which are at high tide very small in size, but at low tide have a surface which is considerably larger. Bahrain claims to have sovereignty over these islands, a claim which is not contested by Qatar.

Fasht al Azm (paras. 188-190)

However, the Parties are divided on the issue of whether Fasht al Azm must be deemed to be part of the island of Sitrah or whether it is a low-tide elevation which is not naturally connected to Sitrah Island. In 1982 Bahrain undertook reclamation works for the construction of a petrochemical plant, during which an artificial channel was dredged connecting the waters on both sides of Fasht al Azm. After careful analysis of the various reports, documents and charts submitted by the Parties, the Court has been unable to establish whether a permanent passage separating Sitrah Island from Fasht al Azm existed before the reclamation works of 1982 were undertaken. For the reasons explained below, the Court is nonetheless able to undertake the requested delimitation in this sector without determining the question whether Fasht al Azm is to be regarded as part of the island of Sitrah or as a low-tide elevation.

Qit'at Jaradah (paras. 191-198)

Another issue on which the Parties have totally opposing views is whether Qit'at Jaradah is an island or a low-tide elevation. The Court recalls that the legal definition of an island is "a naturally formed area of land, surrounded by water, which is above water at high tide" (1958 Convention on the Territorial Sea and Contiguous Zone, Art. 10, para. 1; 1982 Convention on the Law of the Sea, Art. 121, para. 1). The Court has carefully analysed the evidence submitted by the Parties and weighed the conclusions of the experts referred to above, in particular the fact that the experts appointed by Qatar did not themselves maintain that it was scientifically proven that Qit'at Jaradah is a low-tide elevation. On these bases, the Court concludes that the maritime feature of Qit'at Jaradah satisfies the above-mentioned criteria and that it is an island which should as such be taken into consideration for the drawing of the equidistance line. In the present case, taking into account the size of Qit'at Jaradah, the activities carried out by Bahrain on that island must be considered sufficient to support Bahrain's claim that it has sovereignty over it.

Fasht ad Dibal (paras. 199-209)

Both Parties agree that Fasht ad Dibal is a low-tide elevation. Whereas Qatar maintains — just as it did with regard to Qit'at Jaradah — that Fasht ad Dibal as a low-tide elevation cannot be appropriated, Bahrain contends that low-tide elevations by their very nature are territory, and therefore can be appropriated in accordance with the criteria which pertain to the acquisition of territory. "Whatever their location, low-tide elevations are always subject to the law which governs the acquisition and preservation of territorial sovereignty, with its subtle dialectic of title and *effectivités.*"

The Court observes that according to the relevant provisions of the Conventions on the Law of the Sea, which reflect customary international law, a low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide (1958 Convention on the Territorial Sea and the Contiguous Zone, Art. 11, para. 1; 1982 Convention on the Law of the Sea, Art. 13, para. 1). When a low-tide elevation is situated in the overlapping area of the territorial sea of two States, whether with opposite or with adjacent coasts, both States in principle are entitled to use its low-water line for the measuring of the breadth of their territorial sea. The same low-tide elevation then forms part of the coastal configuration of the two States. That is so even if the low-tide elevation is nearer to the coast of one State than that of the other, or nearer to an island belonging to one party than it is to the mainland coast of the other. For delimitation purposes the competing rights derived by both coastal States from the relevant provisions of the law of the sea would by necessity seem to neutralize each other. In Bahrain's view, however, it depends upon the *effectivités* presented by the two coastal States which of them has a superior title to the low-tide elevation in question and is therefore entitled to exercise the right attributed by the relevant provisions of the law of the sea, just as in the case of islands which are situated within the limits of the breadth of the territorial sea of more than one State. In the view of the Court the decisive question for the present case is whether a State can acquire sovereignty by appropriation over a low-tide elevation situated within the breadth of its territorial sea when that same low-tide elevation lies also within the breadth of the territorial sea of another State. International treaty law is silent on the question whether low-tide elevations can be considered to be "territory". Nor is the Court aware of a uniform and widespread State practice which might have given rise to a customary rule which unequivocally permits or excludes appropriation of low-tide elevations. It is only in the context of the law of the sea that a number of permissive rules have been established with regard to low-tide elevations which are situated at a relatively short distance from a coast. The few existing rules do not justify a general assumption that low-tide elevations are territory in the same sense as islands. It has never been disputed that islands constitute terra firma, and are subject to the rules and principles of territorial acquisition; the difference in effects which the law of the sea attributes to islands and low-tide elevations is considerable. It is thus not established that in the absence of other rules and legal principles, low-tide elevations can, from the viewpoint of the acquisition of sovereignty, be fully assimilated with islands or other land territory. In this respect the Court recalls the rule that a low-tide elevation which is situated beyond the limits of the territorial sea does not have a territorial sea of its own. A low-tide elevation, therefore, as such does not generate the same rights as islands or other territory. The Court, consequently, is of the view that in the present case there is no ground for recognizing the right of Bahrain to use as a baseline the low-water line of those low-tide elevations which are situated in the zone of overlapping claims, or for recognizing Qatar as having such a right. The Court accordingly concludes that for the purposes of drawing the equidistance line, such low-tide elevations must be disregarded.

Method of straight baselines (paras. 210-216)

The Court further observes that the method of straight baselines, which Bahrain applied in its reasoning and in the maps provided to the Court, is an exception to the normal rules for the determination of baselines and may only be applied if a number of conditions are met. This method must be applied restrictively. Such conditions are primarily that either the coastline is deeply indented and cut into, or that there is a fringe of islands along the coast in its immediate vicinity. The fact that a State considers itself a multiple-island State or a *de facto* archipelagic State does not allow it to deviate from the normal rules for the determination of baselines unless the relevant conditions are met. The coasts of Bahrain's main islands do not form a deeply indented coast, nor does Bahrain claim this. It contends, however, that the maritime features off the coast of the main islands may be assimilated to a fringe of islands which constitute a whole with the mainland. The Court does not deny that the maritime features east of Bahrain's main islands are part of the overall geographical configuration; it would be going too far, however, to qualify them as a fringe of islands along the coast. The Court, therefore, concludes that Bahrain is not entitled to apply the method of straight baselines. Thus each maritime feature has its own effect for the determination of the baselines, on the understanding that, on the grounds set out before, the low-tide elevations situated in the overlapping zone of territorial seas will be disregarded. It is on this basis that the equidistance line must be drawn. The Court notes, however, that Fasht al Azm requires special mention. If this feature were to be regarded as part of the island of Sitrah, the basepoints for the purposes of determining the equidistance line would be situated on Fasht al Azm's eastern low-water line. If it were not to be regarded as part of the island of Sitrah, Fasht al Azm could not provide such basepoints. As the Court has not determined whether this feature does form part of the island of Sitrah, it has drawn two equidistance lines reflecting each of these hypotheses.

Special circumstances (paras. 217-223)

The Court then turns to the question of whether there are special circumstances which make it necessary to adjust the equidistance line as provisionally drawn in order to obtain an equitable result in relation to this part of the single maritime boundary to be fixed.

With regard to the question of Fasht al Azm, the Court considers that on either of the above-mentioned hypotheses there are special circumstances which justify choosing a delimitation line passing between Fasht al Azm and Qit'at ash Shajarah. With regard to the question of Qit'at Jaradah, the Court observes that it is a very small island, uninhabited and without any vegetation. This tiny island, which — as the Court has determined — comes under Bahraini sovereignty, is situated about midway between the main island of Bahrain and the Qatar peninsula. Consequently, if its low-water line were to be used for determining a basepoint in the construction of the equidistance line, and this line taken as the delimitation line, a disproportionate effect would be given to an insignificant maritime feature. The Court thus finds that there is a special circumstance in this case warranting the choice of a delimitation line passing immediately to the east of Qit'at Jaradah.

The Court observed earlier that, since it did not determine whether Fasht al Azm is part of Sitrah island or a separate low-tide elevation, it is necessary to draw provisionally two equidistance lines. If no effect is given to Qit'at Jaradah and in the event that Fasht al Azm is considered to be part of Sitrah island, the equidistance line thus adjusted cuts through Fasht ad Dibal leaving the greater part of it on the Qatari side. If, however, Fasht al Azm is seen as a low tide elevation, the adjusted equidistance line runs west of Fasht ad Dibal. In view of the fact that under both hypotheses, Fasht ad Dibal is largely or totally on the Qatari side of the adjusted equidistance line, the Court considers it appropriate to draw the boundary line between Qit'at Jaradah and Fasht ad Dibal. As Fasht ad Dibal thus is situated in the territorial sea of Qatar, it falls under the sovereignty of that State.

On these considerations the Court finds that it is in a position to determine the course of that part of the single maritime boundary which will delimit the territorial seas of the Parties. Before doing so the Court notes, however, that it cannot fix the boundary's southern-most point, since its definitive location is dependent upon the limits of the respective maritime zones of Saudi Arabia and of the Parties. The Court also considers it appropriate, in accordance with common practice, to simplify what would otherwise be a very complex delimitation line in the region of the Hawar Islands.

Taking account of all of the foregoing, the Court decides that, from the point of intersection of the respective maritime limits of Saudi Arabia on the one hand and of Bahrain and Qatar on the other, which cannot be fixed, the boundary will follow a north-easterly direction, then immediately turn in an easterly direction, after which it will pass between Jazirat Hawar and Janan; it will subsequently turn to the north and pass between the Hawar Islands and the Qatar peninsula and continue in a northerly direction, leaving the low-tide elevation of Fasht Bu Thur, and Fasht al Azm, on the Bahraini side, and the low-tide elevations of Qita'a el Erge and Qit'at ash Shajarah on the Qatari side; finally it will pass between Qit'at Jaradah and Fasht ad Dibal, leaving Qit'at Jaradah on the Bahraini side and Fasht ad Dibal on the Qatari side.

With reference to the question of navigation, the Court notes that the channel connecting Qatar's maritime zones situated to the south of the Hawar Islands and those situated to the north of those islands, is narrow and shallow, and little suited to navigation. It emphasizes that the waters lying between the Hawar Islands and the other Bahraini islands are not internal waters of Bahrain, but the territorial sea of that State. Consequently, Qatari vessels, like those of all other States, shall enjoy in these waters the right of innocent passage accorded by customary international law. In the same way, Bahraini vessels, like those of all other States, enjoy the same right of innocent passage in the territorial sea of Qatar.

Delimitation of the continental shelf and exclusive economic zone (paras. 224-249)

The Court then deals with the drawing of the single maritime boundary in that part of the delimitation area which covers both the continental shelf and the exclusive economic zone. Referring to its earlier case-law on the drawing of a single maritime boundary the Court observes that it will follow the same approach in the present case. For the delimitation of the maritime zones beyond the 12-mile zone it will first provisionally draw an equidistance line and then consider whether there are circumstances which must lead to an adjustment of that line. The Court further notes that the equidistance special circumstances rule, which is applicable in particular to the delimitation of the territorial sea, and the equitable principles relevant circumstances rule, as it has been developed since 1958 in case-law and State practice with regard to the delimitation of the continental shelf and the exclusive economic zone, are closely interrelated.

The Court then examines whether there are circumstances which might make it necessary to adjust the equidistance line in order to achieve an equitable result. With regard to Bahrain's claim concerning the pearling industry, the Court first takes note of the fact that that industry effectively ceased to exist a considerable time ago. It further observes that, from the evidence submitted to it, it is clear that pearl diving in the Gulf area traditionally was considered as a right which was common to the coastal population. The Court, therefore, does not consider the existence of pearling banks, though predominantly exploited in the past by Bahraini fishermen, as forming a circumstance which would justify an eastward shifting of the equidistance line as requested by Bahrain.

The Court also considers that it does not need to determine the legal character of the "decision" contained in the letters of 23 December 1947 of the British Political Agent to the Rulers of Bahrain and Qatar with respect to the division of the sea-bed, which Qatar claims as a special circumstance. It suffices for it to note that neither of the Parties has accepted it as a binding decision and that they have invoked only parts of it to support their arguments.

Taking into account the fact that it has decided that Bahrain has sovereignty over the Hawar Islands, the Court finds that the disparity in length of the coastal fronts of the Parties cannot, as Qatar claims, be considered such as to necessitate an adjustment of the equidistance line.

The Court finally recalls that in the northern sector the coasts of the Parties are comparable to adjacent coasts abutting on the same maritime areas extending seawards into the Gulf. The northern coasts of the territories belonging to the Parties are not markedly different in character or extent: both are flat and have a very gentle slope. The only noticeable element is Fasht al Jarim as a remote projection of Bahrain's coastline in the Gulf area, which, if given full effect, would "distort the boundary and have disproportionate effects". In the view of the Court such a distortion, due to a maritime feature located well out to sea and of which at most a minute part is above water at high tide, would not lead to an equitable solution which would be in accord with all other relevant factors referred to above. In the circumstances of the case considerations of equity require that Fasht al Jarim should have no effect in determining the boundary line in the northern sector.

The Court accordingly decides that the single maritime boundary in this sector shall be formed in the first place by a line which, from a point situated to the north-west of Fasht ad Dibal, shall meet the equidistance line as adjusted to take account of the absence of effect given to Fasht al Jarim. The boundary shall then follow this adjusted equidistance line until it meets the delimitation line between the respective maritime zones of Iran on the one hand and of Bahrain and Qatar on the other.

*

The Court concludes from all of the foregoing that the single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be formed by a series of geodesic lines joining, in the order specified, the points with the following co-ordinates:

(World Geodetic System, 1984)

Point	*Latitude North*	*Longitude East*
1	25° 34′ 34″	50° 34′ 3″
2	25° 35′ 10″	50° 34′ 48″
3	25° 34′ 53″	50° 41′ 22″
4	25° 34′ 50″	50° 41′ 35″
5	25° 34′ 21″	50° 44′ 5″
6	25° 33′ 29″	50° 45′ 49″
7	25° 32′ 49″	50° 46′ 11″
8	25° 32′ 55″	50° 46′ 48″
9	25° 32′ 43″	50° 47′ 46″
10	25° 32′ 6″	50° 48′ 36″
11	25° 32′ 40″	50° 48′ 54″
12	25° 32′ 55″	50° 48′ 48″
13	25° 33′ 44″	50° 49′ 4″
14	25° 33′ 49″	50° 48′ 32″
15	25° 34′ 33″	50° 47′ 37″
16	25° 35′ 33″	50° 46′ 49″
17	25° 37′ 21″	50° 47′ 54″
18	25° 37′ 45″	50° 49′ 44″
19	25° 38′ 19″	50° 50′ 22″
20	25° 38′ 43″	50° 50′ 26″
21	25° 39′ 31″	50° 50′ 6″

Point	*Latitude North*	*Longitude East*
22	25° 40′ 10″	50° 50′ 30″
23	25° 41′ 27″	50° 51′ 43″
24	25° 42′ 27″	50° 51′ 9″
25	25° 44′ 7″	50° 51′ 58″
26	25° 44′ 58″	50° 52′ 5″
27	25° 45′ 35″	50° 51′ 53″
28	25° 46′ 0″	50° 51′ 40″
29	25° 46′ 57″	50° 51′ 23″
30	25° 48′ 43″	50° 50′ 32″
31	25° 51′ 40″	50° 49′ 53″
32	25° 52′ 26″	50° 49′ 12″
33	25° 53′ 42″	50° 48′ 57″
34	26° 0′ 40″	50° 51′ 00″
35	26° 4′ 38″	50° 54′ 27″
36	26° 11′ 2″	50° 55′ 3″
37	26° 15′ 55″	50° 55′ 22″
38	26° 17′ 58″	50° 55′ 58″
39	26° 20′ 2″	50° 57′ 16″
40	26° 26′ 11″	50° 59′ 12″
41	26° 43′ 58″	51° 3′ 16″
42	27° 2′ 0″	51° 7′ 11″

Below point 1, the single maritime boundary shall follow, in a south-westerly direction, a loxodrome having an azimuth of 234° 16′ 53″, until it meets the delimitation line between the respective maritime zones of Saudi Arabia on the one hand and of Bahrain and Qatar on the other. Beyond point 42, the single maritime boundary shall follow, in a north-north-easterly direction, a loxodrome having an azimuth of 12° 15′ 12″, until it meets the delimitation line between the respective maritime zones of Iran on the one hand and of Bahrain and Qatar on the other.

The course of this boundary has been indicated, for illustrative purposes only, on sketch-map No. 7 attached to the Judgment, reproduced on next page.

*

Operative paragraph (para 251):

"For these reasons,

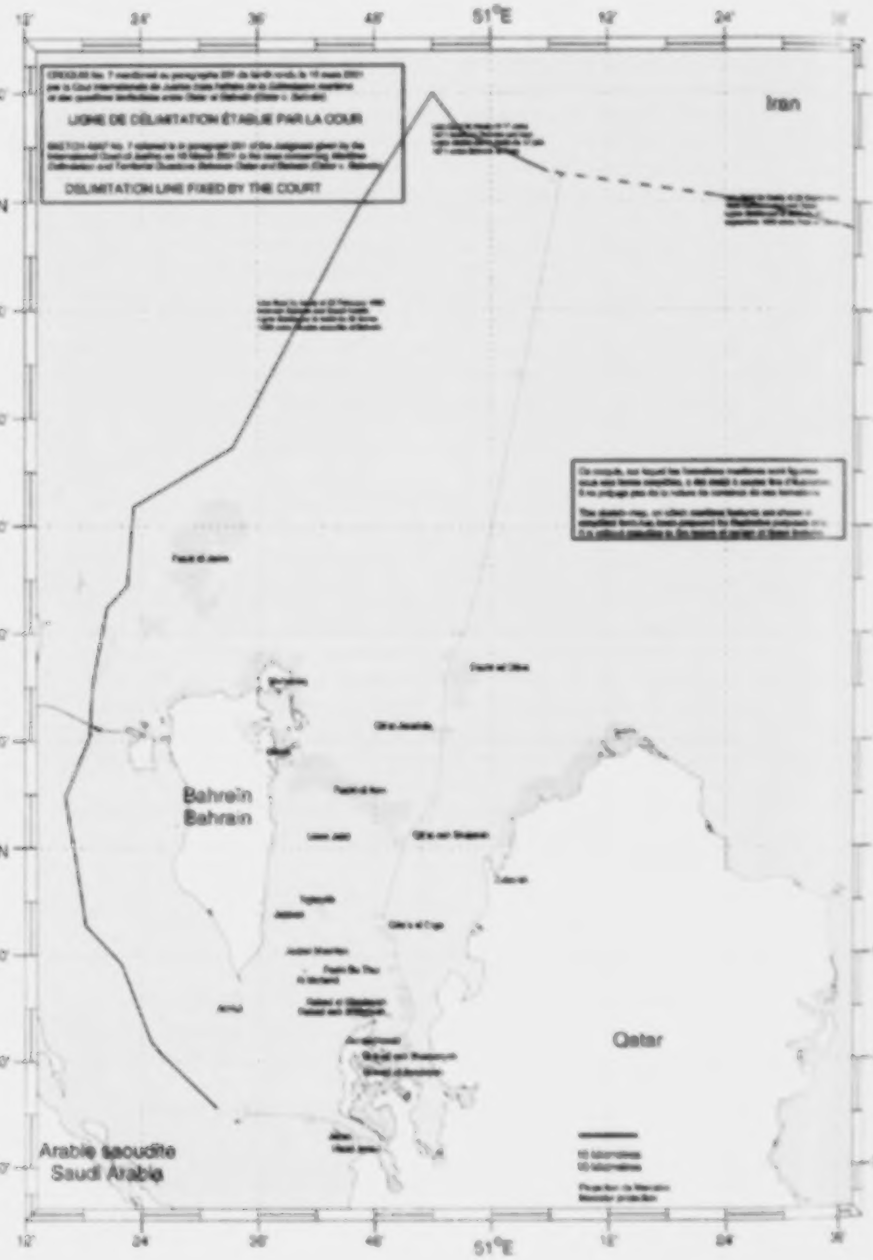
THE COURT,

(1) Unanimously,

Finds that the State of Qatar has sovereignty over Zubarah;

(2) (*a*) By twelve votes to five,

Finds that the State of Bahrain has sovereignty over the Hawar Islands;


LIGNE DE DÉLIMITATION ÉTABLIE PAR LA COUR
DELIMITATION LINE FIXED BY THE COURT
Iran
Bahreïn
Bahrain
Qatar
Arabie saoudite
Saudi Arabia
12'
24'
36'
48'
51°E
12'
24'
36'
10'
27°N
50'
40'
30'
20'
10'
26°N
50'
40'
30'

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge* ad hoc Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma, Vereshchetin; *Judge* ad hoc Torres Bernárdez;

(*b*) Unanimously,

Recalls that vessels of the State of Qatar enjoy in the territorial sea of Bahrain separating the Hawar Islands from the other Bahraini islands the right of innocent passage accorded by customary international law;

(3) By thirteen votes to four,

Finds that the State of Qatar has sovereignty over Janan Island, including Hadd Janan;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Judges* Oda, Higgins, Kooijmans; *Judge* ad hoc Fortier;

(4) By twelve votes to five,

Finds that the State of Bahrain has sovereignty over the island of Qit'at Jaradah;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge* ad hoc Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma, Vereshchetin; *Judge* ad hoc Torres Bernárdez;

(5) Unanimously,

Finds that the low-tide elevation of Fasht ad Dibal falls under the sovereignty of the State of Qatar;

(6) By thirteen votes to four,

Decides that the single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be drawn as indicated in paragraph 250 of the present Judgment;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Herczegh, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; *Judge* ad hoc Fortier;

AGAINST: *Judges* Bedjaoui, Ranjeva, Koroma; *Judge* ad hoc Torres Bernárdez."

*

Judge Oda appended a separate opinion to the Judgment; Judges Bedjaoui, Ranjeva and Koroma a joint dissenting opinion; Judges

Herczegh, Vereshchetin and Higgins declarations; Judges Parra-Aranguren, Kooijmans and Al-Khasawneh separate opinions; Judge *ad hoc* Torres Bernárdez a dissenting opinion, and Judge *ad hoc* Fortier a separate opinion.

2. 3. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently exploded, causing the aeroplane to crash, as a consequence of which 270 persons were killed.

Libya contended that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

(*a*) that Libya has fully complied with all of its obligations under the Montreal Convention;

(*b*) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(*c*) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(*a*) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(*b*) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc* in both cases.

At the opening of the hearings on the request for the indication of provisional measures, on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provisional measures.

At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (*I.C.J. Reports 1992*, pp. 3 and 114), in which it found that the circumstances of the cases were not such as to require the exercise of its power to indicate such measures.

Acting President Oda and Judge Ni each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar-Mawdsley appended a joint declaration. Judges Lachs and Shahabuddeen appended separate opinions; and Judges Bedjaoui, Weeramantry, Ranjeva, Ajibola and Judge *ad hoc* El-Kosheri appended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*ibid.*, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorials of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America. The Memorials were filed within the prescribed time-limit.

On 16 and 20 June 1995 respectively the United Kingdom and the United States of America filed preliminary objections to the jurisdiction of the Court to entertain the Applications of the Libyan Arab Jamahiriya.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

After a meeting had been held, on 9 September 1995, between the President of the Court and the Agents of the Parties to ascertain the latters' views, the Court, by Orders of 22 September 1995 (*I.C.J. Reports 1995*, pp. 282 and 285), fixed, in each case, 22 December 1995 as the time-limit within which the Libyan Arab Jamahiriya might present a written statement of its observations and submissions on the preliminary objections raised by the United Kingdom and the United States of America respectively. Libya filed such statements within the prescribed time-limits.

The Secretary-General of the International Civil Aviation Organization, which had, in accordance with Article 34, paragraph 3, of the Statute, been informed that the interpretation of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircraft, concluded in Montreal on 23 September 1971, was in issue in the two cases, and been communicated copies of the written proceedings, informed the Court that the Organization had "no observation to make for the time being", requesting, however, to be kept informed of the developments of the two cases, in order to determine whether it would be appropriate to submit observations at a later stage.

Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by the United Kingdom and the United States of America were held from 13 to 22 October 1997.

At public sittings held on 27 February 1998, the Court delivered the two Judgments on the preliminary objections (*I.C.J. Reports 1998*, pp. 9 and 115 respectively), by which it rejected the objection to jurisdiction raised by the United Kingdom and the United States of America respectively on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971; found that it had jurisdiction, on the basis of Article 14, paragraph 1, of that Convention, to hear the disputes between Libya and the United Kingdom and Libya and the United States of America respectively as to the interpretation or application of the provisions of that Convention; rejected the objection to admissibility derived by the United Kingdom and the United States of America respectively from Security Council resolutions 748 (1992) and 883 (1993); found that the Applications filed by Libya on 3 March 1992 were admissible; and declared that the objection raised by each of the respondent States according to which Security Council resolutions 748 (1992) and 883 (1993) had rendered the claims of Libya without object did not, in the circumstances of the case, have an exclusively preliminary character.

Joint declarations were appended to the Judgment in the case of *Libya v. United Kingdom* by Judges Bedjaoui, Guillaume and Ranjeva; by Judges Bedjaoui, Ranjeva and Koroma; and by Judges Guillaume and Fleischhauer; Judge Herczegh also appended a declaration; Judges Kooijmans and Rezek appended separate opinions; President Schwebel, Judge Oda and Judge *ad hoc* Sir Robert Jennings appended dissenting opinions.

In the case of *Libya v. United States of America* joint declarations were appended to the Judgment by Judges Bedjaoui, Ranjeva and Koroma; and by Judges Guillaume and Fleischhauer; Judge Herczegh also appended a declaration; Judges Kooijmans and Rezek appended separate opinions; President Schwebel and Judge Oda appended dissenting opinions.

By Orders of 30 March 1998 (*I.C.J. Reports 1998*, pp. 237 and 240 respectively), the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and the United States of America respectively. Upon a proposal of the United Kingdom and of the United States respectively, who referred to diplomatic initiatives undertaken shortly before, and after the views of Libya had been ascertained, the Senior Judge, Acting President, of the Court extended by Orders of 17 December 1998 (*I.C.J. Reports 1998*, pp. 746 and 749) that time-limit by three months to 31 March 1999. The Counter-Memorials were filed within the time-limit thus extended.

By Orders of 29 June 1999 (*I.C.J. Reports 1999*, pp. 975 and 979), the Court, taking account of the agreement of the Parties and the special circumstances of the case, authorized the submission of a Reply by Libya and a Rejoinder by the United Kingdom and the United States of America respectively, fixing 29 June 2000 as the time-limit for the filing of Libya's

Reply. The Court fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date be fixed at this stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court". Libya's Reply was filed within the prescribed time-limit.

By Orders of 6 September 2000 (*I.C.J. Reports 2000*, pp. 140 and 143), the President of the Court, taking account of the views of the Parties, fixed 3 August 2001 as the time-limit for the filing of the Rejoinder of the United Kingdom and the United States respectively.

4. Oil Platforms (Islamic Republic of Iran v. *United States of America)*

On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms.

The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, signed at Tehran on 15 August 1955.

In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X (1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation".

The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

> "*(a)* that the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;
>
> *(b)* that in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, *inter alia*, under Articles I and X (1) of the Treaty of Amity and international law;
>
> *(c)* that in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law;

(*d*) that the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(*e*) any other remedy the Court may deem appropriate."

By an Order of 4 December 1992 (*I.C.J. Reports 1992*, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

By an Order of 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge *ad hoc*.

On 16 December 1993, within the extended time-limit for filing the Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction. In accordance with the terms of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (*I.C.J. Reports 1994*, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objections. That written statement was filed within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

At a public sitting held on 12 December 1996, the Court delivered its Judgment on the preliminary objection raised by the United States (*I.C.J. Reports 1996*, p. 803), rejecting that objection and finding that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge *ad hoc* Rigaux appended separate opinions to the Judgment of the Court; Vice-President Schwebel and Judge Oda appended dissenting opinions.

By an Order of 16 December 1996 (*I.C.J. Reports 1996*, p. 902), the President of the Court, taking into account agreement of the Parties, fixed 23 June 1997 as the time-limit for the filing of the Counter-Memorial of the United States of America. Within the time-limit thus fixed the

United States filed the Counter-Memorial and a Counter-Claim, requesting the Court to adjudge and declare:

> "1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-1988 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran breached its obligations to the United States under Article X of the 1955 Treaty, and
>
> 2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

By a letter of 2 October 1997 Iran informed the Court that it had "serious objections to the admissibility of the United States counter-claim", taking the position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court.

At a meeting which the Vice-President of the Court, Acting President, held on 17 October 1997 with the Agents of the Parties it was agreed that their respective Governments would submit written observations on the question of the admissibility of the United States counter-claim.

After Iran and the United States, in communications dated 18 November and 18 December 1997 respectively, had submitted these written observations the Court, by an Order of 10 March 1998 (*I.C.J. Reports 1998*, p. 190), found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings. It further directed Iran to submit a Reply and the United States to submit a Rejoinder, fixing the time-limits for those pleadings at 10 September 1998 and 23 November 1999 respectively. The Court considered moreover that it was necessary, in order to secure strict equality between the Parties, to reserve the right of Iran to present its views in writing a second time on the United States counter-claim, in an additional pleading, the filing of which might be the subject of a subsequent order.

Judges Oda and Higgins appended separate opinions to the Order; Judge *ad hoc* Rigaux appended a dissenting opinion.

By an Order of 26 May 1998 (*I.C.J. Reports 1998*, p. 269), the Vice-President of the Court, Acting President, extended, at the request of Iran and taking into account the views expressed by the United States, the time-limits for Iran's Reply and the United States Rejoinder to 10 December 1998 and 23 May 2000 respectively. By an Order of 8 December 1998 (*I.C.J. Reports 1998*, p. 740) the Court further extended those time-limits to 10 March 1999 for Iran's Reply and 23 November 2000 for the United States Rejoinder. Iran's Reply was filed within the time-limit thus extended. By an Order of 4 September 2000 (*I.C.J. Reports 2000*, p. 137), the President of the Court extended, at the request of the United States and taking into account the agreement between the parties, the time-limit for the filing of the United States' Rejoinder from

23 November 2000 to 23 March 2001. The Rejoinder was filed within the time-limit thus extended.

5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia. It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

> "(*a*) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II (*a*), II (*b*), II (*c*), II (*d*), III (*a*), III (*b*), III (*c*), III (*d*), III (*e*), IV and V of the Genocide Convention;
>
> (*b*) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;
>
> (*c*) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;
>
> (*d*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;
>
> (*e*) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is con-

tinuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(*f*) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(*g*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(*h*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land;
- aerial trespass into Bosnian airspace;
- efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(*i*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(*j*) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(*k*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(*l*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(*m*) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(*n*) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(*o*) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(*p*) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing it with weapons, military equipment and supplies, and armed forces (soldiers, sailors, air-people, etc.);

(*q*) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;

from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;

from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;

from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

from the starvation of the civilian population in Bosnia and Herzegovina;

from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;

from all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;

> from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
>
> from all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;
>
> (*r*) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

> "The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

> "The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties.

At a public sitting held on 8 April 1993, the President of the Court read out the Order on the request for provisional measures made by Bosnia and Herzegovina (*I.C.J. Reports 1993*, p. 3) by which the Court indicated, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia, the following provisional measures:

(a) The Government of the Federal Republic of Yugoslavia should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide; and the Government of the Federal Republic of Yugoslavia should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group.

(*b*) The Government of the Federal Republic of Yugoslavia and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

Judge Tarassov appended a declaration to the Order.

By an Order of 16 April 1993 (*I.C.J. Reports 1993*, p. 29), the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia.

Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges *ad hoc*.

On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by the Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People — whether Muslim, Christian, Jew, Croat or Serb — the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina — a Member of the United Nations Organization — by means of genocide."

The provisional measures then requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.
>
> 2. That Yugoslavia (Serbia and Montenegro) and all of its public officials — including and especially the President of Serbia, Mr. Slobodan Milosevic — must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.

3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.

4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.

5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.

6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstance, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court,

> "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects",

and stating:

> "I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.
>
> Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within

> their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

> "The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

The hearings concerning the further requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties.

At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning the further requests for the indication of provisional measures (*I.C.J. Reports 1993*, p. 325), by which the Court reaffirmed the provisional measures indicated in its Order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

Judge Oda appended a declaration to the Order; Judges Shahabuddeen, Weeramantry and Ajibola and Judge *ad hoc* Lauterpacht appended separate opinions; and Judge Tarassov and Judge *ad hoc* Kreća appended dissenting opinions.

By an Order of 7 October 1993 (*I.C.J. Reports 1993*, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Memorial was filed within the prescribed time-limit.

By an Order of 21 March 1995 (*I.C.J. Reports 1995*, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia.

On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia filed certain preliminary objections. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

By an Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia. Bosnia and Herzegovina filed such a statement within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Yugoslavia were held between 29 April and 3 May 1996.

At a public sitting held on 11 July 1996, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1996*, p. 595), by which it rejected the objections raised by Yugoslavia, finding that, on the basis of Article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional basis of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

Judge Oda appended a declaration to the Judgment of the Court; Judges Shi and Vereshchetin appended a joint declaration; Judge *ad hoc* Lauterpacht also appended a declaration; Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the Judgment; Judge *ad hoc* Kreća appended a dissenting opinion.

By an Order of 23 July 1996 (*I.C.J. Reports 1996*, p. 797), the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time-limit. It included counter-claims, by which Yugoslavia requested the Court to adjudge and declare:

> "3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:
>
> because it has incited acts of genocide by the 'Islamic Declaration', and in particular by the position contained in it that 'there can be no peace or coexistence between "Islamic faith" and "non-Islamic" social and political institutions';
>
> because it has incited acts of genocide by the *Novi Vox*, paper of the Muslim youth, and in particular by the verses of a 'Patriotic Song' which reads as follows:
>
> 'Dear mother, I'm going to plant willows,
> We'll hang Serbs from them.
> Dear mother, I'm going to sharpen knives,
> We'll soon fill pits again';
>
> because it has incited acts of genocide by the paper *Zmaj od Bosne*, and in particular by the sentence in an article published in it that 'Each Muslim must name a Serb and take oath to kill him';

because public calls for the execution of Serbs were broadcast on radio 'Hajat' and thereby acts of genocide were incited;

because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;

because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent ... [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

At a meeting which the President of the Court held on 22 September 1997 with the Agents of the Parties both Parties accepted that their respective Governments would submit written observations on the question of the admissibility of the Yugoslav counter-claims.

After Bosnia and Herzegovina and Yugoslavia, in communications dated 9 October and 23 October 1997 respectively, had submitted written observations the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997*, p. 243), found that the counter-claims submitted by Yugoslavia in its Counter-Memorial were admissible as such and formed part of the proceedings. It further directed Bosnia and Herzegovina to submit a Reply and Yugoslavia to submit a Rejoinder relating to the claims of both Parties, and fixed the time-limits for those pleadings at 23 January and 23 July 1998 respectively. The Court considered moreover that it was necessary, in order to ensure strict equality between the Parties, to reserve the right of Bosnia and Herzegovina to present its views in writing a second time on the Yugoslav counter-claims in an additional pleading which might be the subject of a subsequent Order.

Judge *ad hoc* Kreća appended a declaration to the Order; Judge Koroma and Judge *ad hoc* Lauterpacht appended separate opinions; and Vice-President Weeramantry appended a dissenting opinion.

By an Order of 22 January 1998 (*I.C.J. Reports 1998*, p. 3), the President of the Court, at the request of Bosnia and Herzegovina and taking into account the views expressed by Yugoslavia, extended the time-limits for the Reply of Bosnia and Herzegovina and the Rejoinder of Yugoslavia to 23 April 1998 and 22 January 1999 respectively. The Reply of Bosnia and Herzegovina was filed within the prescribed time-limit.

Following a request from Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, the Court, by an Order of 11 December 1998 (*I.C.J. Reports 1998*, p. 743), extended the time-limit for the filing of Yugoslavia's Rejoinder to 22 February 1999. That Rejoinder was filed within the time-limit thus extended.

Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

6. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the Court an Application instituting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (*a*) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> (*b*) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> (*c*) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this Article."

By an Order of 14 July 1993 (*I.C.J. Reports 1993*, p. 319) the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

By an Order of 20 December 1994 (*I.C.J. Reports 1994*, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

In June 1995 the Agent of Slovakia asked the Court, by letter, to visit the site of the Gabčíkovo-Nagymaros hydroelectric dam project on the river Danube with regard to the obtaining of evidence in the above case.

The Agent of Hungary thereupon informed the Court that his country would be pleased to co-operate in organizing such a visit.

In November 1995, in Budapest and New York, the two Parties then signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

By an Order of 5 February 1997 (*I.C.J. Reports 1997*, p. 3) the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Art. 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's fifty-year history, took place from 1 to 4 April 1997, between the first and second rounds of oral hearings.

The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. The second round took place on 10 and 11 and on 14 and 15 April 1997.

At a public sitting held on 25 September 1997, the Court delivered its Judgment (*I.C.J. Reports 1997*, p. 7), by which,

(1) Having regard to Article 2, paragraph 1, of the Special Agreement it [found]:

A. that Hungary had not been entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčikovo Project for which the Treaty of 16 September 1977 and related instruments attributed responsibility to it;
B. that Czechoslovakia had been entitled to proceed, in November 1991, to the "provisional solution" as described in the terms of the Special Agreement;
C. that Czechoslovakia had not been entitled to put into operation, from October 1992, this "provisional solution";
D. that the notification, on 19 May 1992, of the termination of the Treaty of 16 September 1977 and related instruments by Hungary had not had the legal effect of terminating them; and,

(2) Having regard to Article 2, paragraph 2, and Article 5 of the Special Agreement, it found:

A. that Slovakia, as successor to Czechoslovakia, had become a party to the Treaty of 16 September 1977 as from 1 January 1993;
B. that Hungary and Slovakia should negotiate in good faith in the light of the prevailing situation, and should take all necessary measures to ensure the achievement of the objectives of the Treaty of 16 September 1977, in accordance with such modalities as they might agree upon;
C. that, unless the Parties otherwise agreed, a joint operational régime should be established in accordance with the Treaty of 16 September 1977;
D. that, unless the Parties otherwise agreed, Hungary should compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia

on account of the suspension and abandonment by Hungary of works for which it was responsible: and Slovakia should compensate Hungary for the damage it has sustained on account of the putting into operation of the "provisional solution" by Czechoslovakia and its maintenance in service by Slovakia: and

E. that the settlement of accounts for the construction and operation of the works should be effected in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments, taking due account of such measures as would have been taken by the Parties in application of points 2 B and C of the operative paragraph.

President Schwebel and Judge Rezek appended declarations to the Judgment: Vice-President Weeramantry, Judges Bedjaoui and Koroma appended separate opinions: Judges Oda, Ranjeva, Herczegh, Fleischhauer, Vereshchetin and Parra-Aranguren and Judge *ad hoc* Skubiszewski appended dissenting opinions.

On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998, however, Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

The full text of Article 5 reads as follows:

> "(1) The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
>
> (2) Immediately after the transmission of the Judgment the Parties shall enter into negotiations on the modalities for its execution.
>
> (3) If they are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment."

Slovakia asked the Court

"to adjudge and declare:

1. that Hungary bears responsibility for the failure of the Parties so far to agree on the modalities for executing the Judgment of 25 September 1997;
2. that in accordance with the Court's Judgment of 25 September 1997, the obligation of the Parties to take all necessary measures to ensure that achievement of the objectives of the Treaty of 16 September 1977 (by which they agreed to build the Gabčikovo-Nagymaros Project) applies to the whole geographical area and the whole range of relationships covered by that Treaty;
3. that, in order to ensure compliance with the Court's Judgment of 25 September 1997, and given that the 1977 Treaty remains in force and that the Parties must take all necessary measures to ensure the achievement of the objectives of that Treaty:
   - *(a)* with immediate effect, the two Parties shall resume their negotiations in good faith so as to expedite their agreement on the modalities for achieving the objectives of the Treaty of 16 September 1977;
   - *(b)* in particular, Hungary is bound to appoint forthwith its Plenipotentiary as required under Article 3 of the Treaty, and to utilize all mechanisms for joint studies and co-operation established by the Treaty, and generally to conduct its relations with Slovakia on the basis of the Treaty;
   - *(c)* the Parties shall proceed by way of a Framework Agreement leading to a Treaty providing for any necessary amendments to the 1977 Treaty;
   - *(d)* in order to achieve this result, the Parties shall conclude a binding Framework Agreement not later than 1 January 1999;
   - *(e)* the Parties shall reach a final agreement on the necessary measures to ensure the achievement of the objectives of the 1977 Treaty in a treaty to enter into force by 30 June 2000;
4. that, should the Parties fail to conclude a Framework Agreement or a final agreement by the dates specified at subparagraphs 3 *(d)* and *(e)* above:
   - *(a)* the 1977 Treaty must be complied with in accordance with its spirit and terms; and
   - *(b)* either party may request the Court to proceed with the allocation of responsibility for any breaches of the Treaty and reparation for such breaches."

At a meeting that the President of the Court held with the representatives of the Parties on 7 October 1998, it was decided that Hungary was to file by 7 December 1998 a written statement of its position on the request for an additional Judgment made by Slovakia. Hungary filed its written statement within the time-limit fixed. The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress in them.

7. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)*

On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi Peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

> "(*a*) that sovereignty over the Peninsula of Bakassi is Cameroonian, by virtue of international law, and that that Peninsula is an integral part of the territory of Cameroon;
>
> (*b*) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (*uti possidetis juris*);
>
> (*c*) that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;
>
> (*d*) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian Peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;
>
> (*e*) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian Peninsula of Bakassi;
>
> (*e'*) that the internationally unlawful acts referred to under (*a*), (*b*), (*c*), (*d*), and (*e*) above involve the responsibility of the Federal Republic of Nigeria;
>
> (*e''*) that, consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federai Republic of Nigeria;
>
> (*f*) in order to prevent any dispute arising between the two States

> concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions."

On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

> "(a) that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;
>
> (b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (*uti possidetis juris*), and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;
>
> (c) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;
>
> (d) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;
>
> (e) that the internationally unlawful acts referred to under (*a*), (*b*), (*c*) and (*d*) above involve the responsibility of the Federal Republic of Nigeria;
>
> (e') that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;
>
> (f) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks

> the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea."

Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

Cameroon chose Mr. Kéba Mbaye and Nigeria Prince Bola A. Ajibola to sit as judges *ad hoc*.

By an Order of 16 June 1994 (*I.C.J. Reports 1994*, p. 105), the Court, seeing no objection to the suggested procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

On 13 December 1995, within the time-limit for the filing of its Counter-Memorial, Nigeria filed certain preliminary objections to the jurisdiction of the Court and to the admissibility of the claims of Cameroon.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

By an Order of 10 January 1996 (*I.C.J. Reports 1996*, p. 3), the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such a statement within the prescribed time-limit.

On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

> "(1) the armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;
>
> (2) the Parties shall abstain from all military activity along the entire boundary until the judgment of the Court takes place;

> (3) the Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon (*I.C.J. Reports 1996*, p. 13), by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it"; that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi Peninsula"; that they "should ensure that the presence of any armed forces in the Bakassi Peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996"; that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area"; and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi Peninsula".

Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court; Judges Weeramantry, Shi and Vereshchetin appended a joint declaration; Judge *ad hoc* Mbaye also appended a declaration; Judge *ad hoc* Ajibola appended a separate opinion to the Order.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Nigeria were held from 2 to 11 March 1998.

At a public sitting held on 11 June 1998, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1998*, p. 275), by which it rejected seven of Nigeria's eight preliminary objections; declared that the eighth preliminary objection did not have, in the circumstances of the case, an exclusively preliminary character; and found that, on the basis of Article 36, paragraph 2, of the Statute, it had jurisdiction to adjudicate upon the dispute and that the Application filed by Cameroon on 29 March 1994, as amended by the Additional Application of 6 June 1994, was admissible.

Judges Oda, Vereshchetin, Higgins, Parra-Aranguren and Kooijmans appended separate opinions to the Judgment of the Court; Vice-President Weeramantry, Judge Koroma and Judge *ad hoc* Ajibola appended dissenting opinions.

By an Order of 30 June 1998 (*I.C.J. Reports 1998*, p. 420), the Court, having been informed of the views of the Parties, fixed 31 March 1999 as the time-limit for the filing of the Counter-Memorial of Nigeria.

On 28 October Nigeria filed a request for an interpretation of the Court's Judgment on preliminary objections of 11 June 1998. This request for interpretation formed a separate case, in which the Court delivered its Judgment on 25 March 1999 (cf. *I.C.J. Yearbook 1998-1999*, pp. 225-230).

On 23 February 1999 Nigeria made a request for extension of the time-limit for the deposit of its Counter-Memorial, because it would "not be in a position to complete its Counter-Memorial until it [knew] the outcome of its request for interpretation as it [did] not at present know the scope of the case it [had] to answer on State responsibility". By a letter of 27 February 1999 the Agent of Cameroon informed the Court that his Government "[was] resolutely opposed to the granting of Nigeria's request", as its dispute with Nigeria "call[ed] for a rapid decision".

By an Order of 3 March 1999 (*I.C.J. Reports 1999*, p. 24), the Court considering that although a request for interpretation "cannot in itself suffice to justify the extension of a time-limit, it should nevertheless, given the circumstances of the case, grant Nigeria's request", extended to 31 May 1999 the time-limit for the filing of Nigeria's Counter-Memorial. The Counter-Memorial was filed within the time-limit thus extended.

The Counter-Memorial included counter-claims, specified in Part VI. At the end of each section dealing with a particular sector of the frontier the Nigerian Government asked the Court to declare that the incidents referred to

> "engage the international responsibility of Cameroon, with compensation in the form of damages, if not agreed between the parties, then to be awarded by the Court in a subsequent phase of the case".

The seventh and final submission set out by the Nigerian Government in its Counter-Memorial reads as follows:

> "*as to Nigeria's counter-claims as specified in Part VI of this Counter-Memorial*, [the Court is asked to] adjudge and declare that Cameroon bears responsibility to Nigeria in respect of those claims, the amount of reparation due therefor, if not agreed between the parties within six months of the date of judgment, to be determined by the Court in a further judgment".

In an Order of 30 June 1999 (*I.C.J. Reports 1999*, p. 983) the Court found that Nigeria's counter-claims were admissible as such and formed part of the proceedings; it further decided that Cameroon should submit a Reply and Nigeria a Rejoinder, relating to the claims of both Parties and fixed the time-limits for those pleadings at 4 April 2000 and 4 January 2001 respectively. Cameroon's Reply and Nigeria's Rejoinder were filed within the prescribed time-limits.

On 30 June 1999 the Republic of Equatorial Guinea filed an Application for permission to intervene in the case.

In its Application, Equatorial Guinea stated that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of Equatorial Guinea's legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between Cameroon and Nigeria". Equatorial Guinea made it clear that it did not seek to intervene in those aspects of the proceedings that relate to the land boundary between Cameroon and Nigeria, nor to become a party to the case. It further stated that, although it would be open to the three countries to request the Court not only to determine the Cameroon-Nigeria maritime boundary but also to determine Equatorial Guinea's maritime boundary with these two States, Equatorial Guinea had made no such request and wished to continue to seek to determine its maritime boundary with its neighbours by negotiation.

The Court fixed 16 August 1999 as the time-limit for the filing of written observations on Equatorial Guinea's Application by Cameroon and Nigeria. Those written observations were filed within the prescribed time-limits.

By an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1029) the Court permitted Equatorial Guinea to intervene in the case, pursuant to Article 62 of the Statute, to the extent, in the manner and for the purposes set out in its Application for permission to intervene, and fixed 4 April 2001 as the time-limit for the filing of the written statement of the Republic of Equatorial Guinea and 4 July 2001 for the written observations of the Republic of Cameroon and of the Federal Republic of Nigeria. Equatorial Guinea's written statement was filed within the prescribed time limit.

By an Order of 20 February 2001 (*I.C.J. Reports 2001*, p. 9) the Court, at the request of Cameroon and taking into account the agreement of the Parties, authorized the submission by Cameroon of an additional pleading, relating solely to the counter-claims submitted by Nigeria and fixed 4 July 2001 as the time-limit for the filing of that pleading.

Following the filing of the various pleadings which were due to be lodged on 4 July 2001, the case is now ready for hearing.

8. *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*

On 2 November 1998, the Republic of Indonesia, and Malaysia jointly notified to the Court a Special Agreement between the two States, signed at Kuala Lumpur on 31 May 1997 and having entered into force on 14 May 1998, in which they request the Court

> "to determine on the basis of the treaties, agreements and any other evidence furnished by the Parties, whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to the Republic of Indonesia or to Malaysia";

By an order of 10 November 1998 (*I.C.J. Reports 1998*, p. 429), the Court, taking into account the provisions of the Special Agreement on the written pleadings, fixed 2 November 1999 and 2 March 2000 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial.

By an Order of 14 September 1999 (*I.C.J. Reports 1999*, p. 1012) the Court, at a request jointly made by the Parties, extended the time-limit for the filing of the Counter-Memorials to 2 July 2000.

Indonesia chose Mr. Mohamed Shahabuddeen and Malaysia chose Mr. Christopher G. Weeramantry to sit as judges *ad hoc*.

The Memorials were filed within the time-limit of 2 November 1999 as fixed by the Court's Order of 10 November 1998.

By an Order of 11 May 2000 (*I.C.J. Reports 2000*, p. 9) the President of the Court, again at a request jointly made by the Parties, extended the time-limit for the filing of the Counter-Memorials another time, to 2 August 2000. The Counter-Memorials were filed within the time-limit thus extended.

By an Order of 19 October 2000 (*I.C.J. Reports 2000*, p. 173) the President of the Court, having regard to the Special Agreement and taking account of the agreement between the Parties, fixed 2 March 2001 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were duly filed within the prescribed time-limit.

On 13 March 2001 the Philippines filed an Application for permission to intervene in the case.

In its Application for permission to intervene, the Philippines stated that it wished to intervene in the proceedings in order "to preserve and safeguard [its Government's] historical and legal rights . . . arising from its claim to dominion and sovereignty over the territory of North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the Court of the question of sovereignty over Pulau Ligitan and Pulau Sipadan"; "to inform the . . . Court of the nature and extent of [those] rights"; and "to appreciate more fully the indispensable role of the . . . Court in comprehensive conflict prevention". The Philippines made it clear that it did not seek to become a party to the case. The Philippines further maintained that "[its] Constitution . . . as well as its legislation, ha[d] laid claim to dominion and sovereignty over North Borneo". According to the Philippines,

> "[t]his . . . claim . . . ha[d] been the subject of diplomatic negotiations, official international correspondence, and peaceful discussions which ha[d] not been concluded. A decision by the Court, or that incidental part of a decision by the Court, which [would] lay down an appreciation of specific treaties, agreements and other evidence bearing on the legal status of North Borneo [would] inevitably and most assuredly affect the outstanding territorial claim of . . . the Philippines to North Borneo, as well as the direct legal right and interest of the Philippines to settle that claim by peaceful means

The Court fixed 2 May 2001 as the time-limit for the filing of written observations on the Philippines' Application by Indonesia and Malaysia.

In their written observations, filed within the prescribed time-limit, Indonesia and Malaysia objected to the Application for permission to intervene by the Philippines. Indonesia *inter alia* stated that the Application should be rejected as untimely and that the Philippines had not demonstrated that it possessed an interest of a legal nature which might be affected by a decision of the Court in the case. Malaysia, for its part, stated that the Philippines had no interest of a legal nature in the dispute, that its request had no proper object and that the Court should in any event reject that request.

Accordingly, pursuant to Article 84, paragraph 2, of its Rules, the Court decided to hold sittings in order to hear the arguments of the Philippines, Indonesia and Malaysia before deciding whether the Application for permission to intervene should be granted. Those sittings were held on 25, 26, 28 and 29 June 2001. Meanwhile, Indonesia, after the resignation of Mr. Mohamed Shahabuddeen, had chosen Mr. Thomas Franck to sit as judge *ad hoc*.

At the time of preparation of this *Yearbook*, the Court was deliberating on its Judgment.

9. *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*

On 28 December 1998 the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaire Shell, Zaire Mobil and Zaire Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaire and Africacontainers-Zaire.

As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998, and the declaration of the Democratic Republic of the Congo of 8 February 1989.

By an Order of 25 November 1999 (*I.C.J. Reports 1999*, p. 1042) the Court, taking into account the agreement of the Parties, fixed 11 September 2000 as the time-limit for the filing of a Memorial by Guinea and 11 September 2001 for the filing of a Counter-Memorial by the Democratic Republic of the Congo.

By an Order of 8 September 2000 (*I.C.J. Reports 2000*, p. 146) the President of the Court, at the request of Guinea and after the views of the other Party had been ascertained, extended to 23 March 2001 and 4 October 2002 the respective time-limits for that Memorial and Counter-Memorial. The Memorial was filed within the time-limit thus extended.

10. LaGrand (Germany v. United States of America)

On 2 March 1999 the Federal Republic of Germany filed in the Registry of the Court an Application instituting proceedings against the United States of America for violations of the Vienna Convention on Consular Relations of 24 April 1963 allegedly committed by the United States.

In the Application Germany based the jurisdiction of the Court on Article 36, paragraph 1, of the Statute of the Court and on Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes, which accompanies the Vienna Convention on Consular Relations ("the Optional Protocol").

In the Application, Germany stated that in 1982 the authorities of the State of Arizona detained two German nationals, Karl and Walter LaGrand; that these individuals were tried and sentenced to death without having been informed, as was required under Article 36, subparagraph 1 (*b*), of the Vienna Convention, of their rights under that provision (which requires the competent authorities of a State party to advise, "without delay", a national of another State party whom such authorities arrest or detain of the national's right to consular assistance guaranteed by Article 36). Germany also alleged that the failure to provide the required notification precluded it from protecting its nationals' interests in the United States provided for by Articles 5 and 36 of the Vienna Convention at both the trial and the appeal level in the United States courts.

Germany stated that it had been, until very recently, the contention of the authorities of the State of Arizona that they had been unaware of the fact that Karl and Walter LaGrand were nationals of Germany; and that it had accepted that contention as true. However, during the proceedings before the Arizona Mercy Committee on 23 February 1999, the State Attorney admitted that the authorities of the State of Arizona had indeed been aware since 1982 that the two detainees were German nationals. Germany further stated that Karl and Walter LaGrand, finally with the assistance of German consular officers, did claim violations of the Vienna Convention before the Federal Court of First Instance; that that court, applying the municipal law doctrine of "procedural default", decided that, because the individuals in question had not asserted their rights under the Vienna Convention in the previous legal proceedings at State level, they could not assert them in the Federal *habeas corpus* proceedings; and that the intermediate federal appellate court, last means of legal recourse in the United States available to them as of right, affirmed this decision.

On 2 March 1999 Germany also submitted an urgent request for the indication of provisional measures.

In its request, Germany referred to the basis of jurisdiction of the Court invoked in its Application, and to the facts set out and the submissions made therein; it affirmed in particular that the United States had violated its obligations under the Vienna Convention.

Germany further recalled that Karl LaGrand had been executed on 24 February 1999, despite all appeals for clemency and numerous diplomatic interventions by the German Government at the highest level; that the date of execution of Walter LaGrand in the State of Arizona had been set for 3 March 1999; and that the request for the urgent indication of provisional measures was submitted in the interest of this latter individual. Germany emphasized that:

> "The importance and sanctity of an individual human life are well established in international law. As recognized by Article 6 of the International Covenant on Civil and Political Rights, every human being has the inherent right to life and this right shall be protected by law".

It added the following:

> "Under the grave and exceptional circumstances of this case, and given the paramount interest of Germany in the life and liberty of its nationals, provisional measures are urgently needed to protect the life of Germany's national Walter LaGrand and the ability of this Court to order the relief to which Germany is entitled in the case of Walter LaGrand, namely restoration of the *status quo ante*. Without the provisional measures requested, the United States will execute Walter LaGrand — as it did execute his brother Karl — before this Court can consider the merits of Germany's claims, and Germany will be forever deprived of the opportunity to have the *status quo ante* restored in the event of a judgment in its favour."

Germany asked the Court to indicate that:

> "The United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of that Order";

it asked the Court moreover to consider its request as a matter of the greatest urgency "in view of the extreme gravity and immediacy of the threat of execution of a German citizen".

By a letter dated also 2 March 1999, the Vice-President of the Court addressed the Government of the United States in the following terms:

> "Exercising the functions of the presidency in terms of Articles 13 and 32 of the Rules of Court, and acting in conformity with Article 74, paragraph 4, of the said Rules, I hereby draw the attention of [the] Government [of the United States] to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

At a public sitting held on 3 March 1999, the Court rendered its Order on the request for the indication of provisional measures (*I.C.J. Reports 1999*, p. 9), by which it indicated the following provisional measures:

(a) The United States of America should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of this Order;

(b) The Government of the United States of America should transmit this Order to the Governor of the State of Arizona;

and decided that, until the Court had given its final decision, it would remain seised of the matters which formed the subject-matter of the Order.

Judge Oda appended a declaration to the Order; President Schwebel appended a separate opinion.

By an Order of 5 March 1999 (*I.C.J. Reports 1999*, p. 28), the Court, taking into account the views of the Parties, fixed 16 September 1999 and 27 March 2000 as the time-limits for the filing of the Memorial of Germany and the Counter-Memorial of the United States respectively. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

Public sittings to hear the oral arguments of the Parties were held from 13 to 17 November 2000.

At the conclusion of the oral proceedings Germany requested the Court to adjudge and declare:

> "(1) that the United States, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, subparagraph 1 *(b)*, of the Vienna Convention on Consular Relations, and by depriving Germany of the possibility of rendering consular assistance, which ultimately resulted in the execution of Karl and Walter LaGrand, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its

nationals, under Articles 5 and 36, paragraph 1, of the said Convention;

(2) that the United States, by applying rules of its domestic law, in particular the doctrine of procedural default, which barred Karl and Walter LaGrand from raising their claims under the Vienna Convention on Consular Relations, and by ultimately executing them, violated its international legal obligation to Germany under Article 36, paragraph 2, of the Vienna Convention to give full effect to the purposes for which the rights accorded under Article 36 of the said Convention are intended;

(3) that the United States, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice on the matter, violated its international legal obligations to comply with the Order on Provisional Measures issued by the Court on 3 March 1999, and to refrain from any action which might interfere with the subject-matter of a dispute while judicial proceedings are pending;

and, pursuant to the foregoing international legal obligations,

(4) that the United States shall provide Germany an assurance that it will not repeat its unlawful acts and that, in any future cases of detention of or criminal proceedings against German nationals, the United States will ensure in law and practice the effective exercise of the rights under Article 36 of the Vienna Convention on Consular Relations. In particular in cases involving the death penalty, this requires the United States to provide effective review of and remedies for criminal convictions impaired by a violation of the rights under Article 36."

The United States asked the Court to adjudge and declare that:

"(1) There was a breach of the United States obligation to Germany under Article 36 (1) *(b)* of the Vienna Convention on Consular Relations, in that the competent authorities of the United States did not promptly give to Karl and Walter LaGrand the notification required by that Article, and that the United States has apologized to Germany for this breach, and is taking substantial measures aimed at preventing any recurrence; and

(2) All other claims and submissions of the Federal Republic of Germany are dismissed."

At a public sitting held on 27 June 2001, the Court delivered its Judgment, a summary of which is given below, followed by the text of the operative paragraph :

History of the proceedings and submissions of the Parties (paras. 1-12)

The Court first recalls the history of the proceedings and the submissions of the Parties as set out hereabove.

History of the dispute (paras. 13-34)

The Court recalls that the brothers Karl and Walter LaGrand — German nationals who had been permanently residing in the United States since childhood — were arrested in 1982 in Arizona for their involvement in an attempted bank robbery, in the course of which the bank manager was murdered and another bank employee seriously injured. In 1984, an Arizona court convicted both of murder in the first degree and other crimes, and sentenced them to death. The LaGrands being German nationals, the Vienna Convention on Consular Relations required the competent authorities of the United States to inform them without delay of their right to communicate with the consulate of Germany. The United States acknowledged that this did not occur. In fact, the consulate was only made aware of the case in 1992 by the LaGrands themselves, who had learnt of their rights from other sources. By that stage, the LaGrands were precluded because of the doctrine of "procedural default" in United States law from challenging their convictions and sentences by claiming that their rights under the Vienna Convention had been violated. Karl LaGrand was executed on 24 February 1999. On 2 March 1999, the day before the scheduled date of execution of Walter LaGrand, Germany brought the case to the International Court of Justice. On 3 March 1999, the Court made an Order indicating provisional measures (a kind of interim injunction) stating *inter alia* that the United States should take all measures at its disposal to ensure that Walter LaGrand was not executed pending a final decision of the Court. On that same day, Walter LaGrand was executed.

Jurisdiction of the Court (paras. 36-48)

The Court observes that the United States, without having raised preliminary objections under Article 79 of the Rules of Court, nevertheless presented certain objections to the jurisdiction of the Court. Germany based the jurisdiction of the Court on Article I of the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes of 24 April 1963, which reads as follows:

> "Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol."

With regard to Germany's first submission (paras. 37-42)

The Court first examines the question of its jurisdiction with respect to the first submission of Germany. Germany relies on paragraph 1 of Article 36 of the Vienna Convention, which provides:

"With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(*a*) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(*b*) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

(*c*) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgement. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action."

Germany alleges that the failure of the United States to inform the LaGrand brothers of their right to contact the German authorities "prevented Germany from exercising its rights under Article 36 (1) (*a*) and (*c*) of the Convention" and violated "the various rights conferred upon the sending State vis-à-vis its nationals in prison, custody or detention as provided for in Article 36 (1) (*b*) of the Convention". Germany further alleges that by breaching its obligations to inform, the United States also violated individual rights conferred on the detainees by Article 36, paragraph 1 (*a*), second sentence, and by Article 36, paragraph 1 (*b*). Germany accordingly claims that it "was injured in the person of its two nationals", a claim which Germany raises "as a matter of diplomatic protection on behalf of Walter and Karl LaGrand". The United States acknowledges that violation of Article 36, paragraph 1 (*b*), has given rise to a dispute between the two States and recognizes that the Court has jurisdiction under the Optional Protocol to hear this dispute in so far as it concerns Germany's own rights. Concerning Germany's claims of violation of Article 36, paragraph 1 (*a*) and (*c*), the United States however calls these claims "particularly misplaced" on the grounds that the "underlying conduct complained of is the same" as the claim of the violation of Article 36, paragraph 1 (*b*). It contends, moreover, that "to the extent that this claim by Germany is based on the general law of diplomatic protection, it is not within the Court's jurisdiction" under the Optional Protocol because it "does not concern the interpretation or application of the Vienna Convention".

The Court does not accept the United States objections. The dispute between the Parties as to whether Article 36, paragraph 1 (*a*) and (*c*), of the Vienna Convention have been violated in this case in consequence of the breach of paragraph 1 (*b*) does relate to the interpretation and application of the Convention. This is also true of the dispute as to whether paragraph 1 (*b*) creates individual rights and whether Germany has standing to assert those rights on behalf of its nationals. These are consequently disputes within the meaning of Article I of the Optional Protocol. Moreover, the Court cannot accept the contention of the United States that Germany's claim based on the individual rights of the LaGrand brothers is beyond the Court's jurisdiction because diplomatic protection is a concept of customary international law. This fact does not prevent a State party to a treaty, which creates individual rights, from taking up the case of one of its nationals and instituting international judicial proceedings on behalf of that national, on the basis of a general jurisdictional clause in such a treaty. Therefore the Court concludes that it has jurisdiction with respect to the whole of Germany's first submission.

With regard to Germany's second and third submissions (paras. 45-45)

Although the United States does not challenge the Court's jurisdiction in regard to Germany's second and third submissions, the Court observes that the third submission of Germany concerns issues that arise directly out of the dispute between the Parties before the Court over which the Court has already held that it has jurisdiction, and which are thus covered by Article I of the Optional Protocol. The Court reaffirms, in this connection, what it said in its Judgment in the *Fisheries Jurisdiction* case, where it declared that in order to consider the dispute in all its aspects, it may also deal with a submission that "is one based on facts subsequent to the filing of the Application, but arising directly out of the question which is the subject-matter of that Application. As such it falls within the scope of the Court's jurisdiction . . ." (*Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland), Merits, Judgment, I.C.J. Reports 1974*, p. 203, para. 72). Where the Court has jurisdiction to decide a case, it also has jurisdiction to deal with submissions requesting it to determine that an order indicating measures which seeks to preserve the rights of the Parties to this dispute has not been complied with.

With regard to Germany's fourth submission (paras. 46-48)

The United States objects to the jurisdiction of the Court over the fourth submission in so far as it concerns a request for assurances and guarantees of non-repetition. It contends that Germany's fourth submission

"goes beyond any remedy that the Court can or should grant, and

> should be rejected. The Court's power to decide cases . . . does not extend to the power to order a State to provide any 'guarantee' intended to confer additional legal rights on the Applicant State . . . The United States does not believe that it can be the role of the Court . . . to impose any obligations that are additional to or that differ in character from those to which the United States consented when it ratified the Vienna Convention."

The Court considers that a dispute regarding the appropriate remedies for the violation of the Convention alleged by Germany is a dispute that arises out of the interpretation or application of the Convention and thus is within the Court's jurisdiction. Where jurisdiction exists over a dispute on a particular matter, no separate basis for jurisdiction is required by the Court to consider the remedies a party has requested for the breach of the obligation (*Factory at Chorzów, P.C.I.J., Series A, No. 9*, p. 22). Consequently, the Court has jurisdiction in the present case with respect to the fourth submission of Germany.

Admissibility of Germany's submissions (paras. 49-63)

The United States objects to the admissibility of Germany's submissions on various grounds. First, the United States argues that Germany's second, third and fourth submissions are inadmissible because Germany seeks to have the Court "play the role of ultimate court of appeal in national criminal proceedings", a role which it is not empowered to perform. The United States maintains that many of Germany's arguments, in particular those regarding the rule of "procedural default", ask the Court "to address and correct . . . asserted violations of US law and errors of judgment by US judges" in criminal proceedings in national courts.

The Court does not agree with this argument. It observes that, in the second submission, Germany asks the Court to interpret the scope of Article 36, paragraph 2, of the Vienna Convention; the third submission seeks a finding that the United States violated an Order issued by this Court pursuant to Article 41 of its Statute; and in Germany's fourth submission, the Court is asked to determine the applicable remedies for the alleged violations of the Convention. Although Germany deals extensively with the practice of American courts as it bears on the application of the Convention, all three submissions seek to require the Court to do no more than apply the relevant rules of international law to the issues in dispute between the Parties to this case. The exercise of this function, expressly mandated by Article 38 of its Statute, does not convert the Court into a court of appeal of national criminal proceedings.

The United States also argues that Germany's third submission is inadmissible because of the manner in which these proceedings were brought before the Court by Germany. It notes that German consular officials became aware of the LaGrands' case in 1992, but that the issue of the absence of consular notification was not raised by Germany until

22 February 1999, two days before the date scheduled for Karl LaGrand's execution. Germany then filed the Application instituting these proceedings, together with a request for provisional measures, after normal business hours in the Registry in the evening of 2 March 1999, some 27 hours before the execution of Walter LaGrand. Germany acknowledges that delay on the part of a claimant State may render an application inadmissible, but maintains that international law does not lay down any specific time-limit in that regard. It contends that it was only seven days before it filed its Application that it became aware of all the relevant facts underlying its claim, in particular, the fact that the authorities of Arizona knew of the German nationality of the LaGrands since 1982.

The Court recognizes that Germany may be criticized for the manner in which these proceedings were filed and for their timing. The Court recalls, however, that notwithstanding its awareness of the consequences of Germany's filing at such a late date, it nevertheless considered it appropriate to enter the Order of 3 March 1999, given that an irreparable prejudice appeared to be imminent. In view of these considerations, the Court considers that Germany is now entitled to challenge the alleged failure of the United States to comply with the Order. Accordingly, the Court finds that Germany's third submission is admissible.

The United States argues further that Germany's first submission, as far as it concerns its right to exercise diplomatic protection with respect to its nationals, is inadmissible on the ground that the LaGrands did not exhaust local remedies. The United States maintains that the alleged breach concerned the duty to inform the LaGrands of their right to consular access, and that such a breach could have been remedied at the trial stage, provided it was raised in a timely fashion.

The Court notes that it is not disputed that the LaGrands sought to plead the Vienna Convention in United States courts after they learned in 1992 of their rights under the Convention; it is also not disputed that by that date the procedural default rule barred the LaGrands from obtaining any remedy in respect of the violation of those rights. Counsel assigned to the LaGrands failed to raise this point earlier in a timely fashion. However, the Court finds that the United States may not now rely on this fact in order to preclude the admissibility of Germany's first submission, as it was the United States itself which had failed to carry out its obligation under the Convention to inform the LaGrand brothers.

The United States also contends that Germany's submissions are inadmissible on the ground that Germany seeks to have a standard applied to the United States that is different from its own practice.

The Court considers that it does not need to decide whether this argument of the United States, if true, would result in the inadmissibility of Germany's submissions. It finds that the evidence adduced by the United States does not justify the conclusion that Germany's own practice fails to conform to the standards it demands from the United States in this litigation. The cases referred to entailed relatively light criminal penalties and are not evidence as to German practice where an arrested person, who has not been informed without delay of his or her rights, is facing a severe penalty as in the present case. The Court considers that the remedies for a violation of Article 36 of the Vienna Convention are not necessarily identical in all situations. While an apology may be an appropriate remedy in some cases, it may in others be insufficient. The Court accordingly finds that this claim of inadmissibility must be rejected.

Merits of Germany's submissions (paras. 64-127)

Having determined that it has jurisdiction, and that the submissions of Germany are admissible, the Court then turns to the merits of each of these four submissions.

Germany's first submission (paras. 65-78)

The Court begins by quoting Germany's first submission (see above, p. 262) and observes that the United States acknowledges, and does not contest Germany's basic claim, that there was a breach of its obligation under Article 36, paragraph 1 (*b*), of the Convention "promptly to inform the LaGrand brothers that they could ask that a German consular post be notified of their arrest and detention".

Germany also claims that the violation by the United States of Article 36, paragraph 1 (*b*), led to consequential violations of Article 36, paragraph 1 (*a*) and (*c*). It points out that, when the obligation to inform the arrested person without delay of his or her right to contact the consulate is disregarded, "the other rights contained in Article 36, paragraph 1, become in practice irrelevant, indeed meaningless". The United States argues that the underlying conduct complained of by Germany is one and the same, namely, the failure to inform the LaGrand brothers as required by Article 36, paragraph 1 (*b*). Therefore, it disputes any other basis for Germany's claims that other provisions, such as subparagraphs (*a*) and (*c*) of Article 36, paragraph 1, of the Convention, were also violated. The United States asserts that Germany's claims regarding Article 36, paragraph 1 (*a*) and (*c*), are "particularly misplaced" in that the LaGrands were able to and did communicate freely with consular officials after 1992. In response, Germany asserts that it is "commonplace that one and the same conduct may result in several violations of distinct obligations". Germany further contends that there is a causal relationship between the breach of Article 36 and the ultimate execution of the LaGrand brothers. It is claimed that, had Germany been properly afforded its rights under the Vienna Convention, it would have been able to intervene in time and present a "persuasive mitigation case" which "likely would have saved" the lives of the brothers. Moreover, Germany argues that, due to the doctrine of procedural default and the high post-conviction threshold for proving ineffective counsel under United States law, Germany's intervention at a stage later than the trial phase could not "remedy the extreme prejudice created by the counsel appointed to represent the LaGrands". According to the United States, these German arguments "rest on speculation" and do not withstand analysis.

The Court observes that the violation of paragraph 1 (b) of Article 36 will not necessarily always result in the breach of the other provisions of this Article, but that the circumstances of this case compel the opposite conclusion, for the reasons indicated below. Article 36, paragraph 1, the Court notes, establishes an interrelated regime designed to facilitate the implementation of the system of consular protection. It begins with the basic principle governing consular protection: the right of communication and access (Art. 36, para. 1 (a)). This clause is followed by the provision which spells out the modalities of consular notification (Art. 36, para. 1 (b)). Finally Article 36, paragraph 1 (c), sets out the measures consular officers may take in rendering consular assistance to their nationals in the custody of the receiving State. It follows that when the sending State is unaware of the detention of its nationals due to the failure of the receiving State to provide the requisite consular notification without delay, which was true in the present case during the period between 1982 and 1992, the sending State has been prevented for all practical purposes from exercising its rights under Article 36, paragraph 1.

Germany further contends that "the breach of Article 36 by the United States did not only infringe upon the rights of Germany as a State party to the [Vienna] Convention but also entailed a violation of the individual rights of the LaGrand brothers". Invoking its right of diplomatic protection, Germany also seeks relief against the United States on this ground. The United States questions what this additional claim of diplomatic protection contributes to the case and argues that there are no parallels between the present case and cases of diplomatic protection involving the espousal by a State of economic claims of its nationals. The United States contends, furthermore, that rights of consular notification and access under the Vienna Convention are rights of States, and not of individuals, even though these rights may benefit individuals by permitting States to offer them consular assistance. It maintains that the treatment due to individuals under the Convention is inextricably linked to and derived from the right of the State, acting through its consular officer, to communicate with its nationals, and does not constitute a fundamental right or a human right.

On the basis of the text of the provisions of Article 36, paragraph 1, the Court concludes that Article 36, paragraph 1, creates individual rights, which, by virtue of Article I of the Optional Protocol, may be invoked in the Court by the national State of the detained person. These rights were violated in the present case.

Germany's second submission (paras. 79-91)

The Court then quotes the second of Germany's submissions (see above, p. 263).

Germany argues that, under Article 36, paragraph 2, of the Vienna Convention

> "the United States is under an obligation to ensure that its municipal 'laws and regulations ... enable full effect to be given to the purposes for which the rights accorded under this article are intended' [and that it] is in breach of this obligation by upholding rules of domestic law which make it impossible to successfully raise a violation of the right to consular notification in proceedings subsequent to a conviction of a defendant by a jury".

Germany emphasizes that it is not the "procedural default" rule as such that is at issue in the present proceedings, but the manner in which it was applied in that it "deprived the brothers of the possibility to raise the violations of their right to consular notification in U.S. criminal proceedings". In the view of the United States, "[t]he Vienna Convention does not require States Party to create a national law remedy permitting individuals to assert claims involving the Convention in criminal proceedings", and "[i]f there is no obligation under the Convention to create such individual remedies in criminal proceedings, the rule of procedural default — requiring that claims seeking such remedies be asserted at an appropriately early stage — cannot violate the Convention".

The Court quotes Article 36, paragraph 2, of the Vienna Convention which reads as follows:

> "The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded to under this article are intended."

It finds that it cannot accept the argument of the United States which proceeds, in part, on the assumption that paragraph 2 of Article 36 applies only to the rights of the sending State and not also to those of the detained individual. The Court determines that Article 36, paragraph 1, creates individual rights for the detained person in addition to the rights accorded to the sending State, and consequently the reference to "rights" in paragraph 2 must be read as applying not only to the rights of the sending State, but also to the rights of the detained individual. The Court emphasizes that, in itself, the "procedural default" rule does not violate Article 36 of the Vienna Convention. The problem arises when the procedural default rule does not allow the detained individual to challenge a conviction and sentence by claiming, in reliance on Article 36, paragraph 1, of the Convention, that the competent national authorities failed to comply with their obligation to provide the requisite consular information "without delay", thus preventing the person from seeking and obtaining consular assistance from the sending State. The Court finds that under the circumstances of the present case the procedural default rule had the effect of preventing "full effect [from being] given to the purposes for which the rights accorded under this article are intended", and thus violated paragraph 2 of Article 36.

Germany's third submission (paras. 92-116)

The Court then quotes the third of Germany's submissions (see above p. 263) and observes that, in its Memorial, Germany contended that "[p]rovisional [m]easures indicated by the International Court of Justice [were] binding by virtue of the law of the United Nations Charter and the Statute of the Court". It observes that in support of its position, Germany developed a number of arguments in which it referred to the "principle of effectiveness", to the "procedural prerequisites" for the adoption of provisional measures, to the binding nature of provisional measures as a "necessary consequence of the bindingness of the final decision", to "Article 94 (1) of the United Nations Charter", to "Article 41 (1) of the Statute of the Court" and to the "practice of the Court". The United States argues that it "did what was called for by the Court's 3 March Order, given the extraordinary and unprecedented circumstances in which it was forced to act". It further states that "[t]wo central factors constrained the United States ability to act. The first was the extraordinarily short time between issuance of the Court's Order and the time set for the execution of Walter LaGrand . . . The second constraining factor was the character of the United States of America as a federal republic of divided powers." The United States also alleges that the "terms of the Court's 3 March Order did not create legal obligations binding on [it]". It argues in this respect that "[t]he language used by the Court in the key portions of its Order is not the language used to create binding legal obligations" and that "the Court does not need here to decide the difficult and controversial legal question of whether its orders indicating provisional measures would be capable of creating international legal obligations if worded in mandatory . . . terms". It nevertheless maintains that those orders cannot have such effects and, in support of that view, develops arguments concerning "the language and history of Article 41 (1) of the Court's Statute and Article 94 of the Charter of the United Nations", the "Court's and State practice under these provisions", and the "weight of publicists' commentary". Lastly, the United States states that in any case, "[b]ecause of the press of time stemming from Germany's last-minute filing of the case, basic principles fundamental to the judicial process were not observed in connection with the Court's 3 March Order" and that "[t]hus, whatever one might conclude regarding a general rule for provisional measures, it would be anomalous — to say the least — for the Court to construe this Order as a source of binding legal obligations".

The Court observes that the dispute which exists between the Parties with regard to this point essentially concerns the interpretation of Article 41, which has been the subject of extensive controversy in the literature. It therefore proceeds to the interpretation of that Article. It does so in accordance with customary international law, reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties. According to paragraph 1 of Article 31, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of the treaty's object and purpose.

The French text of Article 41 reads as follows:

> "1. La Cour a le pouvoir *d'indiquer*, si elle estime que les circonstances l'exigent, quelles mesures conservatoires du droit de chacun *doivent être prises* à titre provisoire.
>
> 2. En attendant l'arrêt définitif, *l'indication* de ces mesures est immédiatement notifiée aux parties et au Conseil de sécurité." (Emphasis added.)

The Court notes that in this text, the terms "indiquer" and "l'indication" may be deemed to be neutral as to the mandatory character of the measure concerned; by contrast the words "doivent être prises" have an imperative character.

For its part, the English version of Article 41 reads as follows:

> "1. The Court shall have the power to *indicate*, if it considers that circumstances so require, any provisional measures which *ought* to be taken to preserve the respective rights of either party.
>
> 2. Pending the final decision, notice of the measures *suggested* shall forthwith be given to the parties and to the Security Council." (Emphasis added.)

According to the United States, the use in the English version of "indicate" instead of "order", of "ought" instead of "must" or "shall", and of "suggested" instead of "ordered", is to be understood as implying that decisions under Article 41 lack mandatory effect. It might however be argued, having regard to the fact that in 1920 the French text was the original version, that such terms as "indicate" and "ought" have a meaning equivalent to "order" and "must" or "shall".

Finding itself faced with two texts which are not in total harmony, the Court first of all notes that according to Article 92 of the Charter, the Statute "forms an integral part of the present Charter". Under Article 111 of the Charter, the French and English texts of the latter are "equally authentic". The same is equally true of the Statute.

In cases of divergence between the equally authentic versions of the Statute, neither it nor the Charter indicates how to proceed. In the absence of agreement between the parties in this respect, it is appropriate to refer to paragraph 4 of Article 33 of the Vienna Convention on the Law of Treaties, which in the view of the Court again reflects customary international law. This provision reads "when a comparison of the authentic texts discloses a difference of meaning which the application of Articles 31 and 32 does not remove the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted". The Court therefore goes on to consider the object and purpose of the Statute together with the context of Article 41.

The object and purpose of the Statute is to enable the Court to fulfil the functions provided for therein, and in particular, the basic function of judicial settlement of international disputes by binding decisions in accordance with Article 59 of the Statute. It follows from that object and purpose, as well as from the terms of Article 41 when read in their context, that the power to indicate provisional measures entails that such measures should be binding, inasmuch as the power in question is based on the necessity, when the circumstances call for it, to safeguard, and to avoid prejudice to, the rights of the parties as determined by the final judgment of the Court. The contention that provisional measures indicated under Article 41 might not be binding would be contrary to the object and purpose of that Article. A related reason which points to the binding character of orders made under Article 41 and to which the Court attaches importance, is the existence of a principle which has already been recognized by the Permanent Court of International Justice when it spoke of

> "the principle universally accepted by international tribunals and likewise laid down in many conventions . . . to the effect that the parties to a case must abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given, and, in general, not allow any step of any kind to be taken which might aggravate or extend the dispute" (*Electricity Company of Sofia and Bulgaria, Order of 5 December 1939, P.C.I.J., Series A/B, No. 79*, p. 199).

The Court does not consider it necessary to resort to the preparatory work of the Statute which, as it nevertheless points out, does not preclude the conclusion that orders under Article 41 have binding force.

The Court finally considers whether Article 94 of the United Nations Charter precludes attributing binding effect to orders indicating provisional measures. That Article reads as follows:

> "1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
>
> 2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment."

The Court notes that the question arises as to the meaning to be attributed to the words "the decision of the International Court of Justice" in paragraph 1 of this Article; it observes that this wording could be understood as referring not merely to the Court's judgments but to any decision rendered by it, thus including orders indicating provisional measures. It could also be interpreted to mean only judgments rendered by the Court as provided in paragraph 2 of Article 94. In this regard, the fact that in Articles 56 to 60 of the Court's Statute, both the word "decision" and the word "judgment" are used does little to clarify the matter. Under the first interpretation of paragraph 1 of Article 94, the text of the paragraph would confirm the binding nature of provisional measures; whereas the second interpretation would in no way preclude their being accorded binding force under Article 41 of the Statute. The Court accordingly concludes that Article 94 of the Charter does not prevent orders made under Article 41 from having a binding character. In short, it is clear that none of the sources of interpretation referred to in the relevant Articles of the Vienna Convention on the Law of Treaties, including the preparatory work, contradict the conclusions drawn from the terms of Article 41 read in their context and in the light of the object and purpose of the Statute. Thus, the Court reaches the conclusion that orders on provisional measures under Article 41 have binding effect.

The Court then considers the question whether the United States has complied with the obligation incumbent upon it as a result of the Order of 3 March 1999 (see above, p. 266).

After reviewing the steps taken by the authorities of the Unites States (the State Department, the United States Solicitor General, the Governor of Arizona, and the United States Supreme Court) with regard to the Order of 3 March 1999, the Court concludes that the various competent United States authorities failed to take all the steps they could have taken to give effect to the Order (see Press Release 2001/16, p. 3).

The Court observes finally that in the third submission Germany requests the Court to adjudge and declare only that the United States violated its international legal obligation to comply with the Order of 3 March 1999; it contains no other request regarding that violation. Moreover, the Court points out that the United States was under great time pressure in this case, due to the circumstances in which Germany had instituted the proceedings. The Court notes moreover that at the time when the United States authorities took their decision the question of the binding character of orders indicating provisional measures had been extensively discussed in the literature, but had not been settled by its jurisprudence. The Court would have taken these factors into consideration had Germany's submission included a claim for indemnification.

Germany's fourth submission (paras. 117-127)

Finally, the Court considers the fourth of Germany's submissions (see above, p. 263) and observes that Germany points out that its fourth submission has been so worded "as to . . . leave the choice of means by which to implement the remedy [it seeks] to the United States".

In reply, the United States argues as follows:

> "Germany's fourth submission is clearly of a wholly different nature than its first three submissions. Each of the first three submis-

> sions seeks a judgment and declaration by the Court that a violation of a stated international legal obligation has occurred. Such judgments are at the core of the Court's function, as an aspect of reparation. In contrast, however, to the character of the relief sought in the first three submissions, the requirement of assurances of non-repetition sought in the fourth submission has no precedent in the jurisprudence of this Court and would exceed the Court's jurisdiction and authority in this case. It is exceptional even as a non-legal undertaking in State practice, and it would be entirely inappropriate for the Court to require such assurances with respect to the duty to inform undertaken in the Consular Convention in the circumstances of this case."

It points out that "US authorities are working energetically to strengthen the régime of consular notification at the state and local level throughout the United States, in order to reduce the chances of cases such as this recurring". The United States further observes that

> "[e]ven if this Court were to agree that, as a result of the application of procedural default with respect to the claims of the LaGrands, the United States committed a second internationally wrongful act, it should limit that judgment to the application of that law in the particular case of the LaGrands. It should resist the invitation to require an absolute assurance as to the application of US domestic law in all such future cases. The imposition of such an additional obligation on the United States would . . . be unprecedented in international jurisprudence and would exceed the Court's authority and jurisdiction."

The Court observes that in its fourth submission Germany seeks several assurances. First it seeks a straightforward assurance that the United States will not repeat its unlawful acts. This request does not specify the means by which non-repetition is to be assured. Additionally, Germany seeks from the United States that "in any future cases of detention of or criminal proceedings against German nationals, the United States will ensure in law and practice the effective exercise of the rights under Article 36 of the Vienna Convention on Consular Relations". The Court notes that this request goes further, for, by referring to the law of the United States, it appears to require specific measures as a means of preventing recurrence. Germany finally requests that "[i]n particular in cases involving the death penalty, this requires the United States to provide effective review of and remedies for criminal convictions impaired by a violation of the rights under Article 36", the Court observes that this request goes even further, since it is directed entirely towards securing specific measures in cases involving the death penalty.

In relation to the general demand for an assurance of non-repetition, the Court observes that it has been informed by the United States of the "substantial measures [which it is taking] aimed at preventing any recurrence" of the breach of Article 36, paragraph 1 (b).

The Court notes that the United States has acknowledged that, in the case of the LaGrand brothers, it did not comply with its obligations to give consular notification. The United States has presented an apology to Germany for this breach. The Court considers however that an apology is not sufficient in this case, as it would not be in other cases where foreign nationals have not been advised without delay of their rights under Article 36, paragraph 1, of the Vienna Convention and have been subjected to prolonged detention or sentenced to severe penalties. In this respect, the Court has taken note of the fact that the United States repeated in all phases of these proceedings that it is carrying out a vast and detailed programme in order to ensure compliance by its competent authorities at the federal as well as at the state and local levels with its obligation under Article 36 of the Vienna Convention. The United States has provided the Court with information, which it considers important, on its programme. If a State, in proceedings before this Court, repeatedly refers to substantial activities which it is carrying out in order to achieve compliance with certain obligations under a treaty, then this expresses a commitment to follow through with the efforts in this regard. The programme in question certainly cannot provide an assurance that there will never again be a failure by the United States to observe the obligation of notification under Article 36 of the Vienna Convention. But no State could give such a guarantee and Germany does not seek it. The Court considers that the commitment expressed by the United States to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 (b), must be regarded as meeting Germany's request for a general assurance of non-repetition.

The Court then examines the other assurances sought by Germany in its fourth submission. The Court observes in this regard that it can determine the existence of a violation of an international obligation. If necessary, it can also hold that a domestic law has been the cause of this violation. In the present case the Court has made its findings of violations of the obligations under Article 36 of the Vienna Convention when it dealt with the first and the second submission of Germany. But it has not found that a United States law, whether substantive or procedural in character, is inherently inconsistent with the obligations undertaken by the United States in the Vienna Convention. In the present case the violation of Article 36, paragraph 2, was caused by the circumstances in which the procedural default rule was applied, and not by the rule as such. However, the Court considers in this respect that if the United States, notwithstanding its commitment referred to above, should fail in its obligation of consular notification to the detriment of German nationals, an apology would not suffice in cases where the individuals concerned have been subjected to prolonged detention or convicted and sentenced to severe penalties. In the case of such a conviction and sentence, it would be incumbent upon the United States to allow the review and reconsideration of the conviction and sentence by taking account of the violation of the rights set forth in the Convention. This obligation can be carried out in various ways. The choice of means must be left to the United States.

*

Operative paragraph (para. 128):

"For these reasons,

THE COURT,

(1) By fourteen votes to one,

Finds that it has jurisdiction, on the basis of Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes to the Vienna Convention on Consular Relations of 24 April 1963, to entertain the Application filed by the Federal Republic of Germany on 2 March 1999;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Parra-Aranguren;

(2) *(a)* By thirteen votes to two,

Finds that the first submission of the Federal Republic of Germany is admissible;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judges* Oda, Parra-Aranguren;

(b) By fourteen votes to one,

Finds that the second submission of the Federal Republic of Germany is admissible;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Oda;

(c) By twelve votes to three,

Finds that the third submission of the Federal Republic of Germany is admissible;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh;

AGAINST: *Judges* Oda, Parra-Aranguren, Buergenthal;

(*d*) By fourteen votes to one,

Finds that the fourth submission of the Federal Republic of Germany is admissible;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Oda;

(3) By fourteen votes to one,

Finds that, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, paragraph 1 (*b*), of the Convention, and by thereby depriving the Federal Republic of Germany of the possibility, in a timely fashion, to render the assistance provided for by the Convention to the individuals concerned, the United States of America breached its obligations to the Federal Republic of Germany and to the LaGrand brothers under Article 36, paragraph 1;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Oda;

(4) By fourteen votes to one,

Finds that, by not permitting the review and reconsideration, in the light of the rights set forth in the Convention, of the convictions and sentences of the LaGrand brothers after the violations referred to in paragraph (3) above had been established, the United States of America breached its obligation to the Federal Republic of Germany and to the LaGrand brothers under Article 36, paragraph 2, of the Convention;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Oda;

(5) By thirteen votes to two,

Finds that, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice in the case, the United States of America breached the obligation incumbent upon it under the Order indicating provisional measures issued by the Court on 3 March 1999;

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judges* Oda, Parra-Aranguren;

(6) Unanimously,

Takes note of the commitment undertaken by the United States of America to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 (*b*), of the Convention, and *finds* that this commitment must be regarded as meeting the Federal Republic of Germany's request for a general assurance of non-repetition;

(7) By fourteen votes to one,

Finds that should nationals of the Federal Republic of Germany nonetheless be sentenced to severe penalties, without their rights under Article 36, paragraph 1 (*b*), of the Convention having been respected, the United States of America, by means of its own choosing, shall allow the review and reconsideration of the conviction and sentence by taking account of the violation of the rights set forth in that Convention.

IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: *Judge* Oda."

*

President Guillaume appended a declaration to the Judgment; Vice-President Shi a separate opinion; Judge Oda a dissenting opinion; Judges Koroma and Parra-Aranguren separate opinions; and Judge Buergenthal a dissenting opinion.

11-18. Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. United Kingdom)

On 29 April 1999 the Federal Republic of Yugoslavia filed in the Registry of the Court Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal, Spain, the United Kingdom and the United States of America "for violation of the obligation not to use force".

In those Applications Yugoslavia defined the subject of the dispute as follows:

> "The subject-matter of the dispute are acts of the [respondent State concerned] by which it has violated its international obligation banning the use of force against another State, the obligation not to intervene in the internal affairs of another State, the obligation

> not to violate the sovereignty of another State, the obligation to protect the civilian population and civilian objects in wartime, the obligation to protect the environment, the obligation relating to free navigation on international rivers, the obligation regarding fundamental human rights and freedoms, the obligation not to use prohibited weapons, the obligation not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group."

As a basis for the jurisdiction of the Court, Yugoslavia referred, in the cases against Belgium, Canada, the Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"), and, in the cases against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

In each of the cases Yugoslavia requested the International Court of Justice to adjudge and declare that:

> "by taking part in the bombing of the territory of the Federal Republic of Yugoslavia, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use force against another State;
>
> by taking part in the training, arming, financing, equipping and supplying terrorist groups, i.e., the so-called 'Kosovo Liberation Army', the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to intervene in the affairs of another State;
>
> by taking part in attacks on civilian targets, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to spare the civilian population, civilians and civilian objects;
>
> by taking part in destroying or damaging monasteries, monuments of culture, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to commit any act of hostility directed against historical monuments, works of art or places of worship which constitute cultural or spiritual heritage of people;
>
> by taking part in the use of cluster bombs, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons, i.e., weapons calculated to cause unnecessary suffering;
>
> by taking part in the bombing of oil refineries and chemical plants, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to cause considerable environmental damage;

> by taking part in the use of weapons containing depleted uranium, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons and not to cause far-reaching health and environmental damage;
>
> by taking part in killing civilians, destroying enterprises, communications, health and cultural institutions, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect the right to life, the right to work, the right to information, the right to health care as well as other basic human rights;
>
> by taking part in destroying bridges on international rivers, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect freedom of navigation on international rivers;
>
> by taking part in activities listed above, and in particular by causing enormous environmental damage and by using depleted uranium, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to deliberately inflict on a national group conditions of life calculated to bring about its physical destruction, in whole or in part;
>
> the [respondent State concerned] is responsible for the violation of the above international obligations;
>
> the [respondent State concerned] is obliged to stop immediately the violation of the above obligations vis-à-vis the Federal Republic of Yugoslavia;
>
> the [respondent State concerned] is obliged to provide compensation for the damage done to the Federal Republic of Yugoslavia and to its citizens and juridical persons";

On the same day, 29 April 1999, Yugoslavia also submitted, in each of the cases, a request for the indication of provisional measures. It requested the Court to indicate the following measure:

> "The [respondent State concerned] shall cease immediately its acts of use of force and shall refrain from any act of threat or use of force against the Federal Republic of Yugoslavia."

Yugoslavia chose Mr. Milenko Kreća, Belgium Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde, Italy Mr. Giorgio Gaja, and Spain Mr. Santiago Torres Bernárdez to sit as judges *ad hoc* in the case.

Hearings on the requests for the indication of provisional measures were held between 10 and 12 May 1999.

At a public sitting held on 2 June 1999, the Vice-President of the Court, Acting President, read the Orders (*I.C.J. Reports 1999*, pp. 124, 259, 363, 422, 481, 542, 656, 761, 826 and 916), by which, in the cases *Yugoslavia* v. *Belgium*, *Yugoslavia* v. *Canada*, *Yugoslavia* v. *France*, *Yugoslavia* v. *Germany*, *Yugoslavia* v. *Italy*, *Yugoslavia* v. *Netherlands*, *Yugoslavia* v. *Portugal* and *Yugoslavia* v. *United Kingdom*, the Court rejected the requests for the indication of provisional measures submitted by that State and reserved the subsequent procedure for further decision. In the cases of *Yugoslavia* v. *Spain* and *Yugoslavia* v. *United States of America*, the Court — having found that it manifestly lacked jurisdiction to entertain Yugoslavia's Application; that it could not therefore indicate any provisional measure whatsoever in order to protect the rights invoked therein; and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice — rejected Yugoslavia's requests for the indication of provisional measures and ordered that those cases be removed from the List.

In each of the cases *Yugoslavia* v. *Belgium*, *Yugoslavia* v. *Canada*, *Yugoslavia* v. *Netherlands* and *Yugoslavia* v. *Portugal*, Judge Koroma appended a declaration to the Order of the Court; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin and Judge *ad hoc* Kreća appended dissenting opinions.

In each of the cases *Yugoslavia* v. *France*, *Yugoslavia* v. *Germany* and *Yugoslavia* v. *Italy*, Vice-President Weeramantry, Acting President, and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda and Parra-Aranguren appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion.

In the case *Yugoslavia* v. *Spain*, Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; and Judges Oda, Higgins, Parra-Aranguren and Kooijmans and Judge *ad hoc* Kreća appended separate opinions.

In the case *Yugoslavia* v. *United Kingdom*, Vice-President Weeramantry, Acting President, and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion.

In the case *Yugoslavia* v. *United States of America*, Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda and Parra-Aranguren appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion.

By Orders of 30 June 1999 (*I.C.J. Reports 1999*, pp. 988, 991, 994, 997, 1000, 1003, 1006, 1009) the Court, having ascertained the views of the Parties, fixed the time-limits for the filing of the written pleadings in each of the eight cases maintained on the List: 5 January 2000 for the Memorial of Yugoslavia and 5 July 2000 for the Counter-Memorial of the respondent State concerned. The Memorial of Yugoslavia in each of the eight cases was filed within the prescribed time-limit.

On 5 July 2000, within the time-limit for the filing of its Counter-Memorial, each of the respondent States in the eight cases maintained on the Court's List (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised certain preliminary objections of lack of jurisdiction and inadmissibility.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

By Orders of 8 September 2000 (*I.C.J. Reports 2000*, pp. 149, 152, 155, 158, 161, 164, 167 and 170), the Vice-President of the Court, Acting President, taking account of the views of the Parties and the special circumstances of the cases, fixed 5 April 2001 as the time-limit for the filing, in each of the cases, of a written statement by Yugoslavia on the preliminary objections raised by the Respondent State concerned.

By Orders of 21 February 2001 (*I.C.J. Reports 2001*, pp. 13, 16, 19, 22, 25, 28, 31 and 34), the Court, in each of the cases, taking account of the agreement of the Parties and of the circumstances of the case, extended that time-limit to 5 April 2002.

19-21. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) (Democratic Republic of the Congo v. Rwanda)

On 23 June 1999 the Democratic Republic of the Congo (DRC) filed in the Registry of the Court Applications instituting proceedings against Burundi, Uganda and Rwanda respectively for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

In its Applications, the DRC contended that "such armed aggression . . . ha[d] involved, *inter alia*, violation of the sovereignty and territorial integrity of the [DRC], violations of international humanitarian law and massive human rights violations". By instituting proceedings, the DRC was seeking "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it was also seeking reparation for acts of intentional destruction and looting, and the restitution of national property and resources appropriated for the benefit of the respective respondent States.

In the cases *Democratic Republic of the Congo* v. *Burundi* and *Democratic Republic of the Congo* v. *Rwanda*, the DRC invoked as bases for the jurisdiction of the Court Article 36, paragraph 1, of the Statute of the Court, the New York Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971, and also Article 38, paragraph 5, of the Rules of Court. This Article contemplates the situation where a State files an application against another State which has not accepted the jurisdiction of the Court. Article 36, paragraph 1, of the Statute, provides that "the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force".

In the case *Democratic Republic of the Congo* v. *Uganda*, the DRC invoked as a basis for the jurisdiction of the Court the declarations by which both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

The Democratic Republic of the Congo requested the Court to:

"*Adjudge and declare that:*

(*a*) [The respondent State concerned] is guilty of an act of aggression within the meaning of Article 1 of resolution 3314 of the General Assembly of the United Nations of 14 December 1974 and of the jurisprudence of the International Court of Justice, contrary to Article 2, paragraph 4, of the United Nations Charter;

(*b*) further, [the respondent State concerned] is committing repeated violations of the Geneva Conventions of 1949 and their Additional Protocols of 1977, in flagrant disregard of the elementary rules of international humanitarian law in conflict zones, and is also guilty of massive human rights violations in defiance of the most basic customary law;

(*c*) more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, in violation of the provisions of Article 56 of the Additional Protocol of 1977, [the respondent State concerned] has rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area;

(*d*) by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, [the respondent State concerned] has also violated the Convention on International Civil Aviation signed at Chicago on 7 December 1944, the Hague Convention of 16 December 1970 for the Suppression of Unlawful Seizure of Aircraft and the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Consequently, and pursuant to the aforementioned international legal obligations, to adjudge and declare that:

(1) all armed forces [of the respondent State concerned] participat-

ing in acts of aggression shall forthwith vacate the territory of the Democratic Republic of the Congo;

(2) [the respondent State concerned] shall secure the immediate and unconditional withdrawal from Congolese territory of its nationals, both natural and legal persons;

(3) the Democratic Republic of the Congo is entitled to compensation from [the respondent State concerned] in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [the respondent State concerned], in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed."

In each of the two cases concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Rwanda)*, the Court, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, pp. 1018, 1025), taking into account the agreement of the Parties as expressed at a meeting between the President and the Agents of the Parties held on 19 October 1999, decided that the written proceedings should first address the questions of the jurisdiction of the Court to entertain the Application and of its admissibility and fixed 21 April 2000 as the time-limit for the filing of a Memorial on those questions by Burundi and Rwanda respectively and 23 October 2000 for the filing of a Counter-Memorial by the Congo. The Memorials of Burundi and Rwanda were filed within the prescribed time-limit.

In those two cases, the Democratic Republic of the Congo chose Mr. Joe Verhoeven to sit as judge *ad hoc*. Burundi chose Mr. Jean J. A. Salmon and Rwanda Mr. John Dugard to sit as judges *ad hoc*.

By an Order of 19 October 2000 (*I.C.J. Reports 2000*, pp. 176, 179) in each of those cases the President of the Court, at the request of the Congo and taking account of the agreement of the Parties, extended to 23 January 2001 the time-limit for the filing of the Counter-Memorial of the Congo.

By letters dated 15 January 2001 the Democratic Republic of the Congo notified the Court in each of the two cases that it wished to discontinue the proceedings and stated that it "reserve[d] the right to invoke subsequently new grounds of jurisdiction of the Court".

After, in each of the two cases, the respondent Party had informed the Court that it concurred in the Congo's discontinuance, the President of the Court, in Orders of 30 January 2001 (*I.C.J. Reports 2001*, pp. 3, 6), placed the discontinuance by the Congo on record and ordered the removal of the cases from the List.

In the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, the Court, taking into account the agreement of the Parties as expressed at a meeting held with them by the President of the Court on 19 October 1999, fixed, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1022), 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Congo was filed within the prescribed time-limit.

On 19 June 2000 the Congo, in the same case against Uganda, filed a request for the indication of provisional measures, stating that "since 5 June last, the resumption of fighting between the armed troops of Uganda and another foreign army has caused considerable damage to the Congo and to its population" while "these tactics have been unanimously condemned, in particular by the United Nations Security Council".

In the request the Democratic Republic of the Congo maintained that "despite promises and declarations of principle . . . Uganda has pursued its policy of aggression, brutal armed attacks of oppression and looting" and that "this is moreover the third Kisangani war, coming after those of August 1999 and May 2000 and having been instigated by the Republic of Uganda . . .". The Congo observed that these acts "represent just one further episode constituting evidence of the military and para-military intervention, and of occupation, commenced by the Republic of Uganda in August 1998". It further stated that "each passing day causes to the Democratic Republic of the Congo and its inhabitants grave and irreparable prejudice" and that "it is urgent that the rights of the Democratic Republic of the Congo be safeguarded".

The Democratic Republic of the Congo requested the Court to indicate the following provisional measures:

> "(1) the Government of the Republic of Uganda must order its army to withdraw immediately and completely from Kisangani;
>
> (2) the Government of the Republic of Uganda must order its army to cease forthwith all fighting or military activity on the territory of the Democratic Republic of the Congo and to withdraw immediately and completely from that territory, and must forthwith desist from providing any direct or indirect support to any State, group, organization, movement or individual engaged or planning to engage in military activities on the territory of the Democratic Republic of the Congo;
>
> (3) the Government of the Republic of Uganda must take all measures in its power to ensure that any units, forces or agents are or could be under its authority, or which enjoy, or could enjoy its support, together with organizations or persons which could be under its control, authority or influence, desist forthwith from committing or inciting the commission of war crimes or any other oppressive or unlawful act against all persons on the territory of the Democratic Republic of the Congo;

(4) the Government of the Republic of Uganda must forthwith discontinue any act having the aim or effect of disrupting, interfering with or hampering actions intended to give the population of the occupied zones the benefit of their fundamental human rights, and in particular their rights to health and education;

(5) the Government of the Republic of Uganda must cease forthwith all illegal exploitation of the natural resources of the Democratic Republic of the Congo and any illegal transfer of assets, equipment or persons to its territory;

(6) the Government of the Republic of Uganda must henceforth respect in full the right of the Democratic Republic of the Congo to sovereignty, political independence and territorial integrity, and the fundamental rights and freedoms of all persons on the territory of the Democratic Republic of the Congo."

By letters of the same date, 19 June 2000, the President of the Court, Judge Gilbert Guillaume, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held on 26 and 28 June 2000.

At a public sitting, held on 1 July 2000, the Court rendered its Order on the request for provisional measures made by the Democratic Republic of the Congo, by which it indicated that both Parties should, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve; that both Parties should, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000; and that both Parties should, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law.

Judges Oda and Koroma appended declarations to the Order of the Court.

The Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges *ad hoc*.

Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1022), Uganda filed its Counter-Memorial. The Counter-Memorial contained counter-claims.

22. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia)*

On 2 July 1999 the Republic of Croatia filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia "for violations of the Convention on the Prevention and Punishment of the Crime of Genocide", alleged to have been committed between 1991 and 1995.

In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slovenia, and Dalmatia, [Yugoslavia] is liable [for] the 'ethnic cleansing' of Croatian citizens from these areas . . . and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Yugoslavia] engaged in conduct amounting to a second round of 'ethnic cleansing' ".

The Application referred to Article 36, paragraph 1, of the Court's Statute and to Article IX of the Genocide Convention as the bases for the jurisdiction of the Court.

Croatia requested the Court to adjudge and declare:

> "(*a*) that the Federal Republic of Yugoslavia has breached its legal obligations toward the People and Republic of Croatia under Articles I, II (*a*), II (*b*), II (*c*), II (*d*), III (*a*), III (*b*), III (*c*), III (*d*), III (*e*), IV and V of the Genocide Convention;
>
> (*b*) that the Federal Republic of Yugoslavia has an obligation to pay to the Republic of Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. The Republic of Croatia reserves the right to introduce to the Court at a future date a precise evaluation of the damages caused by the Federal Republic of Yugoslavia."

By an Order of 14 September 1999 (*I.C.J. Reports 1999*, p. 1015) the Court, taking account of the agreement of the Parties as expressed at a meeting between the President and the Agents of the Parties, held on 13 September 1999, fixed 14 March 2000 as the time-limit for the filing of the Memorial of Croatia and 14 September 2000 for the filing of the Counter-Memorial of Yugoslavia.

By an Order of 10 March 2000 (*I.C.J. Reports 2000*, p. 3), the President of the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, extended the above time-limits to 14 September 2000 for the Memorial and 14 September 2001 for the Counter-Memorial.

By an Order of 27 June 2000 (*I.C.J. Reports 2000*, p. 108) the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, extended again the time-limits, to 14 March 2001 for the Memorial of Croatia and to 16 September 2002 for the Counter-Memorial of Yugoslavia. The Memorial of Croatia was filed within the time-limit thus extended.

Croatia chose Mr. Budislav Vukas to sit as judge *ad hoc*.

23. *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*

On 8 December 1999 the Republic of Nicaragua filed in the Registry of the Court an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

In its Application, Nicaragua stated *inter alia* that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras's position was said to be that

> "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river".

According to Nicaragua, "the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "diplomatic negotiations have failed".

Nicaragua therefore requested the Court

> "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

As a basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

By an Order of 21 March 2000 (*I.C.J. Reports 2000*, p. 6), the Court, taking into account the agreement of the Parties, fixed 21 March 2001 as the time-limit for the filing of the Memorial of Nicaragua and 21 March 2002 for the filing of the Counter-Memorial by Honduras. The Memorial of Nicaragua was filed within the prescribed time-limit.

Copies of the pleadings and documents annexed have been made available to the Government of Colombia, at its request.

24. Arrest Warrant of 11 April 2000
(Democratic Republic of the Congo v. Belgium)

On 17 October 2000, the Democratic Republic of the Congo (the Congo) filed in the Registry of the Court an Application instituting proceedings against Belgium concerning an international arrest warrant issued on 11 April 2000 by a Belgian examining judge against the Congo's acting Minister for Foreign Affairs, Mr. Yerodia Abdoulaye Ndombasi, seeking his detention and subsequent extradition to Belgium for alleged crimes constituting "grave violations of international humanitarian law". The international arrest warrant was transmitted to all States, including the Congo, which received it on 12 July 2000.

In its Application, the Democratic Republic of the Congo notes that the arrest warrant, issued by Mr. Vandermeersch, examining judge at the Brussels Tribunal de première instance, characterizes the alleged facts as "crimes of international law committed by action or omission against persons or property protected by the Geneva Conventions of 12 August 1949 and the Additional Protocols I and II to those Conventions, crimes against humanity" and cites in support of this proposition provisions of the allegedly applicable Belgian Law of 16 June 1993 as amended by the Law of 10 February 1999 pertaining to the punishment of grave violations of international humanitarian law. The Democratic Republic of the Congo states that, according to the terms of the warrant, the examining judge affirms his competence to deal with facts allegedly committed on the territory of the Congo by a national of that State, without it being alleged that the victims are of Belgian nationality, or that the facts constitute violations of the security or dignity of the Kingdom of Belgium. It further observes that Article 5 of the above-mentioned Belgian Law prescribes that "the immunity conferred by a person's official capacity does not prevent application of this Law" and that Article 7 of the same Law establishes the universal applicability of the Law and the universal jurisdiction of Belgian courts in relation to "grave violations of international humanitarian law", which jurisdiction is not subject to the presence of the accused on Belgian territory.

The Congo maintains that Article 7 of the Belgian Law and the arrest warrant issued on the basis of that Article constitute "a violation of the principle whereby a State may not exercise its authority on the territory of another State and the principle of sovereign equality among all members of the United Nations", as declared in Article 2, paragraph 1, of the Charter. It also maintains that Article 5 and the arrest warrant contravene international law, in so far as they claim to derogate from the diplomatic immunity of the Minister for Foreign Affairs of a sovereign State, "deriving from Article 41, paragraph 2, of the Vienna Convention of 18 April 1961 on Diplomatic Relations".

Accordingly, the Congo asks the Court to declare that Belgium must annul the international arrest warrant issued against Mr. Abdoulaye Yerodia Ndombasi.

As a basis for the Court's jurisdiction, the Congo invokes the fact that "Belgium has accepted the Court's jurisdiction and [that], to the extent necessary, the present Application signifies acceptance of that jurisdiction by the Democratic Republic of the Congo".

The Democratic Republic of the Congo also filed a request for the indication of a provisional measure seeking "to have the arrest warrant withdrawn forthwith". In its request, the Congo maintains that "the two conditions that are essential for the indication of a provisional measure under the jurisprudence of the Court — urgency and the existence of irreparable damage — are manifestly present in this case". It stresses *inter alia* that "the disputed international arrest warrant in effect prevents the Minister [of the Democratic Republic of the Congo] from departing that State for any other State where his duties may call him and, accordingly, from accomplishing his duties".

Hearings on the request for the indication of provisional measures filed by the Congo were held from 20 to 23 November 2000.

During those hearings, the Democratic Republic of the Congo *inter alia* stated the following:

> "the Democratic Republic of the Congo requests the Court to order Belgium to comply with international law; to cease and desist from any conduct which might exacerbate the dispute with the Democratic Republic of the Congo; specifically, to discharge the international arrest warrant issued against Minister Yerodia".

Belgium, for its part, made the following submissions:

> "The Kingdom of Belgium asks that it may please the Court to refuse the request for the indication of provisional measures submitted by the Democratic Republic of the Congo in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* and not indicate the provisional measures which are the subject of the request by the Democratic Republic of the Congo.
>
> The Kingdom of Belgium asks that it may please the Court to remove from its List the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* brought by the Democratic Republic of the Congo against Belgium by Application dated 17 October 2000."

At a public sitting, held on 8 December 2000, the Court rendered its Order (*I.C.J. Reports 2000*, p. 182) on the request for the indication of provisional measures, a summary of which is given below, followed by the text of the final paragraph:

The Court begins by recalling that, in the course of the hearings, it was informed by Belgium that on 20 November 2000 a Cabinet reshuffle had taken place in the Congo, as a result of which Mr. Yerodia Ndombasi had ceased to exercise the functions of Minister for Foreign Affairs and had been charged with those of Minister of Education; and that this information was confirmed by the Congo.

Belgium had maintained that, as a result of the Cabinet reshuffle, the Congo's Application on the merits had been deprived of its object and should therefore be removed from the List. In this regard, the Court observes that, "to date", the arrest warrant issued against Mr. Yerodia Ndombasi "has not been withdrawn and still relates to the same individual, notwithstanding the new ministerial duties that he is performing" and that "at the hearings the Congo maintained its claim on the merits". It accordingly concludes that "the Congo's Application has not at the present time been deprived of its object" and that "it cannot therefore accede to Belgium's request for the case to be removed from the List".

As regards the request for the indication of provisional measures, the Court finds that it too still has an object, despite the Cabinet reshuffle, since *inter alia* the arrest warrant continues to be in the name of Mr. Yerodia Ndombasi and the Congo contends that Mr. Yerodia Ndombasi continues to enjoy immunities which render the arrest warrant unlawful.

The Court then turns to the issue of its jurisdiction. In the course of the hearings Belgium had contended that the Court could not at this stage of the proceedings take account of the declarations of acceptance of its compulsory jurisdiction made by the Parties because the Congo had not invoked those declarations until a late stage. The Court observes that the said declarations are within the knowledge both of itself and of the Parties to the present case and that Belgium could readily expect that they would be taken into consideration as a basis for the jurisdiction of the Court in the present case. Belgium had also pointed out that its declaration excluded the compulsory jurisdiction of the Court concerning situations or facts "in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement", and that negotiations at the highest level regarding the arrest warrant were in fact in progress when the Congo seised the Court. The Court states that Belgium has not provided the Court with any further details of those negotiations, or of the consequences which it considered they would have in regard to the Court's jurisdiction, in particular its jurisdiction to indicate provisional measures. The Court concludes that the declarations made by the Parties constitute prima facie a basis on which its jurisdiction could be founded in the present case.

After having recalled that the power of the Court to indicate provisional measures "has as its object to preserve the respective rights of the parties pending the decision of the Court", that it "presupposes that irreparable prejudice should not be caused to rights which are the subject of dispute" and that "such measures are justified solely if there is urgency", the Court notes that, following the Cabinet reshuffle of 20 November 2000, Mr. Yerodia Ndombasi ceased to exercise the functions of Minister for Foreign Affairs and was charged with those of Minister of Education, involving less frequent foreign travel. It concludes that "it has accordingly not been established that irreparable prejudice might be caused in the immediate future to the Congo's rights nor that the degree of urgency is such that those rights need to be protected by the indication of provisional measures".

The Court adds that, "while the Parties appear to be willing to consider seeking a friendly settlement of their dispute, their positions as set out before [it] regarding their respective rights are still a long way apart". It points out that, "while any bilateral negotiations with a view to achieving a direct and friendly settlement will continue to be welcomed, the outcome of such negotiations cannot be foreseen"; that "it is desirable that the issues before the Court should be determined as soon as possible" and that "it is therefore appropriate to ensure that a decision on the Congo's Application be reached with all expedition". The Court further states that the Order made in the present proceedings in no way prejudges the question of the jurisdiction of the Court to deal with the merits of the case, or with any questions relating to the admissibility of the Application or to the merits themselves.

Final paragraph (para. 78):

> "For these reasons,
>
> THE COURT,
>
> (1) Unanimously,
>
> *Rejects* the request of the Kingdom of Belgium that the case be removed from the List;
>
> (2) By fifteen votes to two,
>
> *Finds* that the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.
>
> IN FAVOUR: *President* Guillaume; *Vice-President* Shi; *Judges* Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal; *Judge* ad hoc Van den Wyngaert;
>
> AGAINST: *Judge* Rezek; *Judge* ad hoc Bula-Bula."

*

Judges Oda and Ranjeva appended declarations to the Order of the Court; Judges Koroma and Parra-Aranguren separate opinions; Judge

Rezek and Judge *ad hoc* Bula-Bula dissenting opinions; and Judge *ad hoc* Van den Wyngaert a declaration.

*

By an Order of 13 December 2000 (*I.C.J. Reports 2000*, p. 235), the President of the Court, taking account of the agreement of the Parties, fixed 15 March 2001 and 31 May 2001 as the time-limits for the filing of the Memorial of the Democratic Republic of the Congo and the Counter-Memorial of Belgium respectively.

By an Order of 14 March 2001 (*I.C.J. Reports 2001*, p. 37), the Court, at the request of the Democratic Republic of the Congo and taking account of the reasons given by it and of the agreement of the Parties, extended those time-limits to 17 April 2001 and 31 July 2001 respectively.

By an Order of 12 April 2001, the President of the Court, at the request of the Democratic Republic of the Congo and taking account of the reasons given by it and of the agreement of the Parties, further extended those time-limits to 17 May 2001 for the Congo's Memorial and 17 September 2001 for Belgium's Counter-Memorial. The Memorial of the Congo was filed within the time-limit thus extended.

By an Order of 27 June 2001, the Court rejected a request by Belgium seeking to derogate from the agreed procedure in the case and extended to 28 September 2001 the time-limit for the filing by the latter of a Counter-Memorial addressing both questions of jurisdiction and admissibility and the merits of the dispute. It further fixed 15 October 2001 as the date for the opening of the hearings.

25. *Application for Revision of the Judgment of 11 July 1996 in the Case concerning* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia), Preliminary Objections *(Yugoslavia v. Bosnia and Herzegovina)*

On 24 April 2001 the Federal Republic of Yugoslavia (FRY) filed in the Registry of the Court an Application for revision of the Judgment delivered by the Court on 11 July 1996 in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections.*

In that Judgment (see above, p. 245), the Court rejected the preliminary objections raised by Yugoslavia and found that it had jurisdiction to deal with the case on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, dismissing the additional bases of jurisdiction invoked by Bosnia and Herzegovina. The Court further found that the Application filed by Bosnia and Herzegovina was admissible.

Yugoslavia contends that a revision of the Judgment is necessary now that it has become clear that, before 1 November 2000 (the date on which it was admitted as a new Member of the United Nations), Yugoslavia did not continue the international legal and political personality of the Socialist Federal Republic of Yugoslavia, was not a Member of the United Nations, was not a State party to the Statute of the Court, and was not a State party to the Genocide Convention (which is only open to United Nations Member States or to non-Member States to which an invitation to sign or accede has been addressed by the General Assembly).

Yugoslavia bases its Application for revision on Article 61 of the Statute of the Court, which provides in its first paragraph that

> "an application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence".

Yugoslavia states that its admission to the United Nations as a new Member on 1 November 2000 constitutes "a new fact", which was "obviously unknown to both the Court and to [Yugoslavia] at the time of the 1996 Judgment". It adds that

> "since membership in the United Nations, combined with the status of a party to the Statute [of the Court] and to the Genocide Convention represent the only basis on which jurisdiction over the FRY was assumed, and could be assumed, the disappearance of this assumption . . . [is] clearly of such a nature [as] to be a decisive factor".

Yugoslavia asserts that no alternative basis for the Court's jurisdiction existed or could have existed in the case. Yugoslavia further notes that, while on 8 March 2001 it submitted to the United Nations Secretary-General a notification seeking accession to the Genocide Convention, that instrument includes a reservation to Article IX. Moreover, according to Yugoslavia,

> "accession has no retroactive effect. Even if it had [retroactive effect] this cannot possibly encompass the compromissory clause in Article IX of the Genocide Convention, because the FRY never accepted Article IX and the FRY's accession [to the Convention] did not encompass Article IX."

For all these reasons, Yugoslavia requested the Court to declare that "there is a new fact of such a character as to lay the case open to revision under Article 61 of the Statute of the Court". It further asked the Court to "suspend proceedings regarding the merits of the Case until a decision on this Application is rendered".

26. *Certain Property (Liechtenstein v. Germany)*

On 1 June 2001 Liechtenstein filed in the Registry of the Court an Application instituting proceedings against Germany concerning

> "decisions of Germany . . . to treat certain property of Liechtenstein nationals as German assets . . . seized for the purposes of reparation or restitution as a consequence of World War II . . . without ensuring any compensation."

In the Application, Liechtenstein alleges the following facts. In 1945, Czechoslovakia — during World War II an allied country and a belligerent against Germany — through a series of decrees (the Beneš decrees) seized German and Hungarian property located on its territory. Czechoslovakia applied those decrees not only to German and Hungarian nationals, but also to other persons allegedly of German or Hungarian origin or ethnicity. For this purpose it treated the nationals of Liechtenstein as German nationals. The property of these Liechtenstein nationals seized under these decrees (the "Liechtenstein property") has never been returned to its owners nor has compensation been offered or paid. The application of the Beneš decrees to the Liechtenstein property remained an unresolved issue between Liechtenstein and Czechoslovakia until the dissolution of the latter, and it continues to be an unresolved issue as between Liechtenstein and the Czech Republic, on whose territory the vast majority of Liechtenstein property is located.

Liechtenstein further refers to the Convention on the Settlement of Matters arising out of the War and the Occupation, signed at Bonn on 26 May 1952 ("the Settlement Convention"). The Application states that by Article 3, paragraph 1, of this Convention, Germany agreed, *inter alia*, that it would "in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of reparation or restitution, or as a result of the state of war". The Application alleges that the Settlement Convention was only concerned with German property so-called, i.e., property of the German State or of its nationals, and that under international law, having regard to Liechtenstein's neutrality and the absence of whatsoever links between Liechtenstein and the conduct of the war by Germany, any Liechtenstein property that may have been affected by measures of an Allied power could not be considered as "seized for the purpose of reparation or restitution, or as a result of the state of war". Liechtenstein maintains that subsequent to the conclusion of the Settlement Convention, it was accordingly understood between Germany and itself that the Liechtenstein property did not fall within the régime of the Convention, and that, as a corollary, Germany maintained the position that property falling outside the scope of the Convention was unlawfully seized, and that the German courts were not barred from considering claims affecting such property.

Liechtenstein alleges that in 1998 the position of the Federal Republic of Germany changed, however, as a result of a decision of the Federal Constitutional Court of 28 January 1998. The decision concerned a painting which was among the Liechtenstein property seized in 1945, and which was in possession of the Historic Monument Offices in Brno, Czech Republic, a State entity of the Czech Republic. It was brought to Germany for the purposes of an exhibition, and thus came into possession of the Municipality of Cologne. At the request of the Reigning Prince, Prince Hans Adam II, acting in his private capacity, the painting was attached pending determination of the claim by the German courts. Eventually, however, the claim failed. The Federal Constitutional Court held that the German courts were required by Article 3 of the Settlement Convention to treat the painting as German property in the sense of the Convention. Accordingly the painting was released and returned to the Czech Republic. The Application of Liechtenstein claims that the decision of the Federal Constitutional Court is unappealable, and is attributable to Germany as a matter of international law and is binding upon Germany.

Liechtenstein states that it protested to Germany that the latter was treating as German assets which belonged to nationals of Liechtenstein, to their detriment and the detriment of Liechtenstein itself. It states further that Germany rejected this protest and that in subsequent consultations it became clear that Germany now adheres to the position that Liechtenstein assets as a whole were "seized for the purpose of reparation or restitution, or as a result of the state of war" within the meaning of the Convention, even though the decision of the Federal Constitutional Court only concerned a single item. According to the Application of Liechtenstein, in taking this position Germany remains faithful to the decision of its highest court in the matter; but at the same time it ignores and undermines the rights of Liechtenstein and its nationals in respect of the Liechtenstein property. Liechtenstein claims that:

> "*(a)* by its conduct with respect to the Liechtenstein property, in and since 1998, Germany failed to respect the rights of Liechtenstein with respect to that property;
>
> *(b)* by its failure to make compensation for losses suffered by Liechtenstein and/or its nationals, Germany is in breach of the rules of international law".

Liechtenstein accordingly requests the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requests "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

As a basis for the Court's jurisdiction, Liechtenstein invokes Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

By an Order of 28 June 2001, the Court, taking account of the agreement of the Parties, fixed 28 March 2002 as the time-limit for the filing of a Memorial by Liechtenstein and 27 December 2002 as the time-limit for the filing of a Counter-Memorial by Germany.

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. *Organization of the Court*

(a) *The Presidency*

(Statute, Art. 48; Rules, Arts. 13, 31, 32, para. 1, 44, para. 4, 48 and 74, para. 4)

The President of the Court made Orders fixing or extending time-limits in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)*, *Oil Platforms (Islamic Republic of Iran v. United States of America)*, *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Rwanda)* and *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*.

The President of the Court also fixed the date for the opening of the oral proceedings on the request for the indication of a provisional measure in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*.

The President of the Court, being a national of one of the Parties in the case concerning *Legality of Use of Force (Yugoslavia v. France)*, did not, in accordance with Article 32, paragraph 1, of the Rules of Court, exercise the functions of the Presidency in that case, and considered that it would not be appropriate for him to exercise these functions either in the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. United Kingdom)*. In accordance with Article 13, paragraph 1, of the Rules, the Vice-President exercised those functions and made Orders fixing time-limits in those cases.

On several occasions the President or Vice-President convened meetings with the Agents of Parties in cases pending before the Court in order to ascertain the views of those Parties with regard to questions of procedure.

(b) *Non-participation of a judge in a case*

(Statute, Art. 23, para. 3; Rules, Art. 20, para. 2)

In the case concerning *Sovereignty over Pulau Ligitan and Pulau*

Sipadan (Indonesia/Malaysia) two Members of the Court, for serious reasons duly explained to the President, were prevented from taking part in some or all of the hearings on the Application for permission to intervene submitted by the Philippines in that case.

(c) *Judges* ad hoc

(Statute, Arts. 20 and 31; Rules, Arts. 4, 8 and 35)

The judge *ad hoc* originally chosen [illegible] Indonesia in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)* having resigned, that State chose a new judge *ad hoc*. The two judges *ad hoc* chosen by Indonesia and Malaysia made the solemn declaration required by the Statute and Rules of Court at the opening of the hearings on the Application for permission to intervene submitted by the Philippines.

The applicant State in the three cases concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Uganda) (Democratic Republic of the Congo* v. *Rwanda)* exercised its power to choose a judge *ad hoc*; the respondent State in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)* did so too (the respondent States in the other two cases having done so previously, see *I.C.J. Yearbook 1999-2000*, p. 245).

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Yugoslavia)* the respondent State also exercised its right to choose a judge *ad hoc*.

In the case concerning *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*, both Parties exercised the right to choose a judge *ad hoc*. The two judges *ad hoc* chosen made the solemn declaration required by the Statute and Rules of Court at the opening of the hearings on the request for the indication of a provisional measure in the case.

In the case concerning *Certain Property (Liechtenstein* v. *Germany)* the applicant State also exercised its right to choose a judge *ad hoc*.

(d) *Chamber of Summary Procedure*

(Statute, Art. 29)

During the period under review, the Court composed the Chamber of Summary Procedure, consisting of five judges and two substitute judges.

(e) *Election of a Deputy-Registrar*

On 19 February 2001 the Court re-elected the Deputy-Registrar for a term of seven years.

2. *Jurisdiction of the Court*

(a) *General*

(Statute, Arts. 36 and 38)

In its Judgment of 27 June 2001 in the *LaGrand (Germany* v. *United States of America)* case, the Court, as a preliminary matter, dealt with certain issues which were raised by the Parties in the proceedings, concerning the jurisdiction of the Court in relation to Germany's Application, and the admissibility of its submissions. In this case, the applicant State based the jurisdiction of the Court on Article I of the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes of 24 April 1963.

In the part of the Judgment concerning those issues (paras. 36-63), the Court, *inter alia*, did not accept the contention of the respondent State that the applicant State's claim based on the individual rights of the LaGrand brothers was beyond the Court's jurisdiction because diplomatic protection is a concept of customary international law. The Court pointed out that this fact did not prevent a State party to a treaty, which creates individual rights, from taking up the case of one of its nationals and instituting international judicial proceedings on behalf of that national, on the basis of a general jurisdictional clause in such a treaty (cf. para. 42 of the Judgment).

The Court further pointed out that where it has jurisdiction to decide a case, it also has jurisdiction to deal with submissions requesting it to determine that an order indicating measures which seeks to preserve the rights of the Parties to this dispute has not been complied with, reaffirming what it said in its judgment in the *Fisheries Jurisdiction* case, where it declared that in order to consider the dispute in all its aspects, it may also deal with a submission that "is one based on facts subsequent to the filing of the Application, but arising directly out of the question which is the subject-matter of that Application. As such it falls within the scope of the Court's jurisdiction." (*Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland), Merits, Judgment, ICJ Reports 1974*, p. 203, para. 72) (cf. para. 45 of the Judgment).

The Court also observed that "Where jurisdiction exists over a dispute on a particular matter, no separate basis for jurisdiction is required by the Court to consider the remedies a party has requested for the breach of the obligation (*Factory at Chorzów, P.C.I.J., Series A, No. 9*, p. 22)". It did so with regard to the respondent State's contention that the applicant State's fourth submission

> "goes beyond any remedy that the Court can or should grant, and should be rejected. The Court's power to decide cases . . . does not extend to the power to order a State to provide any 'guarantee' intended to confer additional legal rights on the Applicant State . . . The United States does not believe that it can be the role of the Court . . . to impose any obligations that are additional to or that

> differ in character from those to which the United States consented when it ratified the Vienna Convention" (cf. para. 46 of the Judgment).

The Court in addition rejected the respondent State's contention that three of the applicant State' s submissions were inadmissible because that State was seeking to have the Court "play the role of ultimate court of appeal in national criminal proceedings", a role which it is not empowered to perform. The respondent State maintained that many of the applicant State's arguments, in particular those regarding the rule of "procedural default", asked the Court "to address and correct . . . asserted violations of US law and errors of judgment by US judges" in criminal proceedings in national courts. The Court pointed out that, although the applicant State dealt extensively with the practice of the respondent State's courts as it bore on the application of the Convention, all three submissions sought to require the Court to do no more than apply the relevant rules of international law to the issues in dispute between the Parties to this case. The exercise of this function, expressly mandated by Article 38 of its Statute, did not convert the Court into a court of appeal of national criminal proceedings (cf. paras. 50-52 of the Judgment).

(b) *Declaration recognizing as compulsory the jurisdiction of the Court*

(Statute, Art. 36, paras. 2 and 4)

In the case concerning *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*, the respondent State, relying on the Order made by the Court on 2 June 1999 in the case concerning *Legality of Use of Force (Yugoslavia* v. *Belgium) (I.C.J. Reports 1999*, p. 139, para. 44), contended in the course of the proceedings that, since the applicant State had not expressly invoked the declarations recognizing the compulsory jurisdiction of the Court, made by the respondent State, in 1958, and by the applicant State (then Zaire) in 1989, until a late stage, in the second round of oral argument, the Court could not take them into consideration for the purposes of deciding whether or not it could indicate provisional measures in the present case (cf. para. 42 of the Order of 8 December 2000).

The Court observed that, notwithstanding a certain lack of precision in the terms whereby, in its Application, the applicant State set out the bases on which it sought to found the jurisdiction of the Court, the Application did nonetheless refer to the acceptance of the Court's jurisdiction by the respondent State; that, in accordance with Article 38, paragraph 2, of the Rules of Court, "[t]he application shall specify *as far as possible* the legal grounds upon which the jurisdiction of the Court is said to be based" (emphasis added), and that it is in any event for the Court to ascertain in each case whether it has jurisdiction; that, as recalled (para. 61 of the Order), the declarations whereby the respondent State and the applicant State recognized the compulsory jurisdiction of the Court were duly deposited with the Secretary-General of the United

Nations, who, in accordance with Article 36, paragraph 4, of the Statute, transmitted copies thereof to the Court and to all the States parties to the Statute; that these declarations were reproduced in the *Yearbook* of the Court; that the declarations in question were therefore within the knowledge both of the Court and of the Parties to the case, who could not but be aware that "the Court's jurisdiction . . . is based on the consent of States, expressed in a variety of ways including declarations made under Article 36, paragraph 2, of the Statute" (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986*, p. 32, para. 44); that, having regard to the terms in which the Application was formulated and to the submissions presented by the applicant State, the respondent State could readily have expected that the declarations made by the two Parties would be taken into consideration as a basis for the jurisdiction of the Court in the present case; that the respondent State had therefore been in a position to prepare and put forward any such argument as it thought fit in this regard; and that the fact that the applicant State had invoked those declarations in the second round of oral argument on the request for the indication of provisional measures was not likely to "seriously jeopardize the principle of procedural fairness and the sound administration of justice" (*Legality of Use of Force (Yugoslavia v. Belgium), Provisional Measures, Order of 2 June 1999, I.C.J. Reports 1999*, p. 139, para. 44).

In view of the foregoing, the Court considered that there was nothing to prevent it, for purposes of deciding whether or not it could indicate provisional measures in the case, from taking account of the declarations whereby the Parties had accepted its compulsory jurisdiction.

(c) *Preliminary objections*

(Statute, Art. 36, para. 6; Rules, Art. 79)

On 5 December 2000 the Court adopted amendments to Article 79 of its Rules, which came into force on 1 February 2001 (see above, p. 3).

In the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* the Court, by an Order of 27 June 2001, rejected the request by the respondent State for authorization to submit preliminary objections involving suspension of the proceedings on the merits, in derogation of earlier Orders of the President of the Court by which, taking account of the agreement of the Parties, time-limits had been fixed and extended for the filing of a Memorial by the applicant State and a Counter-Memorial by the respondent State addressing both issues of jurisdiction and admissibility and the merits.

3. *Contentious Procedure*

(a) *Institution of proceedings*

(Statute, Arts. 40 and 61; Rules, Arts. 38, 39 and 99)

In the cases concerning the *Arrest Warrant of 11 April 2000 (Democratic*

Republic of the Congo v. *Belgium*), *Application for Revision of the Judgment of 11 July 1996 in the Case concerning* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia), Preliminary Objections (*Yugoslavia* v. *Bosnia and Herzegovina*) and *Certain Property* (*Liechtenstein* v. *Germany*), proceedings were instituted by means of an Application. The Registrar proceeded with the requisite communications.

With regard to the considerations concerning the Application of the Democratic Republic of the Congo in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*) which the Court gave in its Order on the request for the indication of provisional measures in that case, see under 2 (*b*), p. 302 above.

(b) *Number of pleadings and fixing or extension of time-limits*

(Statute, Arts. 43, 48 and 62; Rules, Arts. 31 and 83)

In the case concerning *the Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*), the Court, in an Order by which it authorized the applicant State to submit an additional pleading relating solely to the counter-claims submitted by the respondent State, also fixed the time-limit for the filing of that pleading.

In each of the cases concerning *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *United Kingdom*), the Court extended the time-limit for the filing of a written statement by the applicant State on the preliminary objections raised by the respondent State concerned.

In the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*) the Court extended the time-limits for the filing of the Memorial of the applicant State and the Counter-Memorial of the respondent State. It extended the latter time-limit a further time by an Order, by which it rejected a request by the respondent State seeking to derogate from the agreed procedure in the case (see under 2 (*c*), p. 303 above).

The Court also fixed the time-limits for the filing of the Memorial of the applicant State and the Counter-Memorial of the respondent State in the case concerning *Certain Property* (*Liechtenstein* v. *Germany*).

The Court finally fixed, but not by an Order, the time-limit for the filing of written observations by the two States parties in the case on the Application for permission to intervene made by a third State in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia*/*Malaysia*).

For the fixing or extension of time-limits by the President and the Vice-President of the Court, see under 1 (*a*), p. 299 above.

(c) *Filing of pleadings*

In each of the cases concerning *Ahmadou Sadio Diallo* (*Republic of

Guinea v. *Democratic Republic of the Congo*), *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia* v. *Yugoslavia*), *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea* (*Nicaragua* v. *Honduras*) and *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*), the Memorial of the applicant State was filed within the time-limit fixed or extended.

The same was the case for the Counter-Memorial of the respondent State in the case concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Uganda*) and the Rejoinder of the respondent State in the case concerning *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*).

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria: Equatorial Guinea intervening*), the written statements of the third State permitted to intervene and of the two Parties were filed within the time-limits prescribed. An additional pleading by the applicant State on the counter-claims submitted by the respondent State in that case was also filed within the time-limit fixed.

In the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*), both Parties filed their Replies within the prescribed time-limit. Written observations on the Application of a third State for permission to intervene in the case were further submitted by both Parties within the prescribed time-limit.

Certified copies of all these pleadings were communicated to the other Party in each of the cases.

(d) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56)

In the course of the oral proceedings and after their closure, each of the Parties in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*) produced new documents pursuant to Article 56 of the Rules of Court without any objection being raised by the other Party. As the respondent State referred, in support of its arguments during its last round of oral pleadings, to five new documents that it had initially proposed to use only for purposes of its reply to a question from a Member of the Court, the Court decided, in order to safeguard the adversarial nature of the proceedings, to authorize the applicant State, in accordance with the wish expressed by it, to submit written comments on the line of argument thus put forward by the respondent State and on the documents in question. Those comments were filed by the applicant State within the time-limit fixed for that purpose.

In the *LaGrand* (*Germany* v. *United States of America*) case, the applicant State wished to file five new documents after the closure of the written pleadings. The Court, having been informed that the respondent

State consented to the production of the first and second documents, but not that of the three others, decided to authorize the production of the latter group of documents by the applicant State, it being understood that the respondent State would have the opportunity, in accordance with paragraph 3 of Article 56 of the Rules of Court, to comment subsequently thereon and to submit documents in support of those comments. That decision was duly communicated to the Parties by letters from the Registrar dated 9 November 2000.

(e) *Availability of pleadings to States entitled to appear before the Court*

(Rules, Art. 53, para. 1)

In the case concerning *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, copies of the pleadings and documents annexed thereto have been made available to one State entitled to appear before the Court (see above, p. 291).

In the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, a State entitled to appear before the Court asked to be furnished with copies of the pleadings and documents annexed thereto. After ascertaining the views of the Parties in the case, the Court decided that it was not appropriate to grant that request in the circumstances.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)* and the *LaGrand (Germany v. United States of America)* case, the Court, after ascertaining the views of the Parties, decided to make the pleadings and documents annexed thereto accessible to the public on the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Arts. 43, 45 and 46; Rules, Arts. 54, 58 and 59)

The hearings in the cases concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)* and *LaGrand (Germany v. United States of America)* each consisted of two rounds of oral arguments in which both States participated.

The Court also held two rounds of hearings on the request for the indication of provisional measures made by the applicant State in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)* (see below, p. 307, under *(j)*).

(h) *Questions by judges*

(Statute, Art. 45; Rules, Arts. 61 and 72)

At the hearing in the case concerning *LaGrand (Germany v. United*

States of America) Members of the Court put questions to the applicant State. The replies were also given in writing, within the prescribed time-limit.

At the hearings on the request for the indication of provisional measures in the case concerning *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*), a question was asked on behalf of the Court by the President, to which an oral reply was given.

(i) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral arguments on the Application for permission to intervene in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*), the Agents of the State requesting permission to intervene and of the two States Parties in the case stated the conclusions of their Governments with regard to that Application, which they also submitted in writing.

In the second round of oral arguments in the *LaGrand* (*Germany* v. *United States of America*) case, the Agents of both Parties in the case read the final submissions of their Governments, which they also submitted in writing.

In the second round of oral arguments concerning the request for the indication of provisional measures in the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*), the Agent of the applicant State gave that State's conclusions; the Agent of the respondent State read the final submissions of its Government, which were also submitted in writing.

(j) *Provisional measures*

(Statute, Arts. 41 and 48; Rules, Arts. 73 and 74)

In the case concerning the *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*) the applicant State made a request for the indication of provisional measures on the same day on which the Application was filed (see above, p. 292). The Registrar proceeded immediately with the required transmittals. Public hearings on the request at which both Parties presented oral observations were held a month later. Two weeks after those hearings the Court made an Order in which it found that the circumstances, as they presented themselves to the Court were "not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures".

In its Judgment in the *LaGrand* (*Germany* v. *United States of America*) case, the Court addressed the question of the legal effects of orders made under Article 41 of the Statute.

It did so in response to the applicant State's third submission, in which it asked the Court to adjudge and declare :

> "that the United States, by failing to take all measures at its disposal

> to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice on the matter, violated its international legal obligation to comply with the Order on Provisional Measures issued by the Court on 3 March 1999, and to refrain from any action which might interfere with the subject matter of a dispute while judicial proceedings are pending".

The applicant State contended in its Memorial that "[p]rovisional [m]easures indicated by the International Court of Justice [were] binding by virtue of the law of the United Nations Charter and the Statute of the Court", developing a number of arguments in support of its position.

The respondent State argued that it "did what was called for by the Court's 3 March Order, given the extraordinary and unprecedented circumstances in which it was forced to act". It also alleged that the "terms of the Court's 3 March Order did not create legal obligations binding on [it]". It argued in this respect that "[t]he language used by the Court in the key portions of its Order is not the language used to create binding legal obligations" and that "the Court does not need here to decide the difficult and controversial legal question of whether its orders indicating provisional measures would be capable of creating international legal obligations if worded in mandatory . . . terms". It maintained that those orders could not have such effects and developed arguments in support of that view.

The Court observed that neither the Permanent Court of International Justice nor the present Court to date, had been called upon to determine the legal effects of orders made under Article 41 of the Statute. As the applicant State's third submission referred expressly to an international legal obligation "to comply with the Order on Provisional Measures issued by the Court on 3 March 1999", and as the respondent State disputed the existence of such an obligation, the Court was called upon to rule expressly on this question.

It considered that the dispute which existed between the Parties with regard to this point essentially concerned the interpretation of Article 41, which was worded in identical terms in the Statute of each Court (apart from the respective references to the Council of the League of Nations and the Security Council). This interpretation had been the subject of extensive controversy in the literature. The Court therefore proceeded to the interpretation of Article 41 of the Statute. It did so in accordance with customary international law, reflected in Article 31 of the 1969 Vienna Convention on the Law of Treaties. According to paragraph 1 of Article 31, a treaty must be interpreted in good faith in accordance with the ordinary meaning to be given to its terms in their context and in the light of the treaty's object and purpose.

Having examined the French and English texts of Article 41 of the Statute, the Court found itself faced with two texts which were not in total harmony. The Court noted that according to Article 92 of the Charter, the Statute "forms an integral part of the present Charter"

Under Article 111 of the Charter, the French and English texts of the latter were "equally authentic". The same was equally true of the Statute.

The Court observed that in cases of divergence between the equally authentic versions of the Statute, neither it nor the Charter indicates how to proceed. In the absence of agreement between the parties in this respect, it was appropriate to refer to paragraph 4 of Article 33 of the Vienna Convention on the Law of Treaties, which in the view of the Court again reflected customary international law. This provision reads "when a comparison of the authentic texts discloses a difference of meaning which the application of Articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted".

The Court therefore considered the object and purpose of the Statute together with the context of Article 41.

The Court pointed out that the object and purpose of the Statute was to enable the Court to fulfil the functions provided for therein, and in particular, the basic function of judicial settlement of international disputes by binding decisions in accordance with Article 59 of the Statute. The context in which Article 41 had to be seen within the Statute was to prevent the Court from being hampered in the exercise of its functions because the respective rights of the parties to a dispute before the Court were not preserved. It followed from the object and purpose of the Statute, as well as from the terms of Article 41 when read in their context, that the power to indicate provisional measures entailed that such measures should be binding, inasmuch as the power in question was based on the necessity, when the circumstances called for it, to safeguard, and to avoid prejudice to, the rights of the parties as determined by the final judgment of the Court. The contention that provisional measures indicated under Article 41 might not be binding would be contrary to the object and purpose of that Article.

A related reason which pointed to the binding character of orders made under Article 41 and to which the Court attached importance, was the existence of a principle which had already been recognized by the Permanent Court of International Justice when it spoke of

> "the principle universally accepted by international tribunals and likewise laid down in many conventions . . . to the effect that the parties to a case must abstain from any measure capable of exercising a prejudicial effect in regard to the execution of the decision to be given, and, in general, not allow any step of any kind to be taken which might aggravate or extend the dispute" (*Electricity Company of Sofia and Bulgaria, Order of 5 December 1939, P.C.I.J., Series A/B, No. 79*, p. 199).

Furthermore measures designed to avoid aggravating or extending disputes had frequently been indicated by the Court. They were indicated with the purpose of being implemented (see *Nuclear Tests (Australia v. France), Interim Protection, Order of 22 June 1973, I.C.J. Reports 1973*,

p. 106; *Nuclear Tests (New Zealand v. France), Interim Protection, Order of 22 June 1973, I.C.J. Reports 1973*, p. 142; *Frontier Dispute, Provisional Measures, Order of 10 January 1986, I.C.J. Reports 1986*, p. 9, para. 18, and p. 11, para. 32, point 1 A; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, Order of 8 April 1993, I.C.J. Reports 1993*, p. 23, para. 48, and p. 24, para. 52 B; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Provisional Measures, Order of 13 September 1993, I.C.J. Reports 1993*, p. 349, para. 57, and p. 350, para. 61 (3); *Land and Maritime Boundary between Cameroon and Nigeria, Provisional Measures, Order of 15 March 1996, I.C.J. Reports 1996*, pp. 22-23, para. 41, and p. 24, para. 49 (1)).

Given the conclusions reached by the Court above in interpreting the text of Article 41 of the Statute in the light of its object and purpose, it did not consider it necessary to resort to the preparatory work in order to determine the meaning of that Article. The Court nevertheless pointed out that the preparatory work of the Statute did not preclude the conclusion that orders under Article 41 have binding force.

The Court finally considered whether Article 94 of the United Nations Charter precluded attributing binding effect to orders indicating provisional measures. That Article reads as follows:

> "1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
>
> 2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment."

The question arose as to the meaning to be attributed to the words "the decision of the International Court of Justice" in paragraph 1 of this Article. This wording could be understood as referring not merely to the Court's judgments but to any decision rendered by it, thus including orders indicating provisional measures. It could also be interpreted to mean only judgments rendered by the Court as provided in paragraph 2 of Article 94. In this regard, the fact that in Articles 56 to 60 of the Court's Statute, both the word "decision" and the word "judgment" were used did little to clarify the matter.

Under the first interpretation of paragraph 1 of Article 94, the text of the paragraph would confirm the binding nature of provisional measures, whereas the second interpretation would in no way preclude their being accorded binding force under Article 41 of the Statute. The Court accordingly concluded that Article 94 of the Charter did not prevent orders made under Article 41 from having a binding character.

In short, it was clear that none of the sources of interpretation referred to in the relevant Articles of the Vienna Convention on the Law of

Treaties, including the preparatory work, contradicted the conclusions drawn from the terms of Article 41 read in their context and in the light of the object and purpose of the Statute. Thus, the Court reached the conclusion that orders on provisional measures under Article 41 have binding effect.

(k) *Counter-claims*

(Rules, Art. 80)

On 5 December 2000 the Court adopted amendments to Article 80 of its Rules, to come into force on 1 February 2001 (see above, p. 3).

The respondent State in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)* presented counter-claims in its Counter-Memorial (see above, p. 288). At a meeting which the President of the Court held with the Agents of the Parties, the applicant State raised objections to the admissibility of the counter-claims. Time-limits were then fixed for the submission of the views on that question by the applicant State and by the respondent State respectively.

(l) *Intervention*

(Statute, Art. 62; Rules, Arts. 81, 83 and 84, para. 2)

In the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, a third State filed a request for permission to intervene in the case.

In its Application it was stated that the purpose of its intervention would be "to preserve and safeguard [its Government's] historical and legal rights . . . arising from its claim to dominion and sovereignty over the territory of North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the Court of the question of sovereignty over Pulau Ligitan and Pulau Sipadan"; "to inform the . . . Court of the nature and extent of [those] rights"; and "to appreciate more fully the indispensable role of the . . . Court in comprehensive conflict prevention". The State requesting permission to intervene made it clear that it did not seek to become a party to the case. It further maintained that "[its] Constitution . . . as well as its legislation, ha[d] laid claim to dominion and sovereignty over North Borneo". According to the Philippines,

> "[t]his . . . claim . . . ha[d] been the subject of diplomatic negotiations, official international correspondence, and peaceful discussions which ha[d] not been concluded. A decision by the Court, or that incidental part of a decision by the Court, which [would] lay down an appreciation of specific treaties, agreements and other evidence bearing on the legal status of North Borneo [would] inevitably and most assuredly affect the outstanding territorial claim of . . . the Philippines to North Borneo, as well as the direct legal right and interest of the Philippines to settle that claim by peaceful means."

The Court fixed 2 May 2001 as the time-limit for the filing by the two States Parties in the case of written observations on the Application for permission to intervene. In their written observations, those States Parties objected to the Application for permission to intervene. One of those States *inter alia* stated that the Application should be rejected as untimely and that the State requesting permission to intervene had not demonstrated that it possessed an interest of a legal nature which might be affected by a decision of the Court in the case. The other State Party in the case, for its part, stated that the State requesting permission to intervene had no interest of a legal nature in the dispute, that its request had no proper object and that the Court should in any event reject that request.

Accordingly, pursuant to Article 84, paragraph 2, of its Rules, the Court decided to hold sittings in order to hear the arguments of the State requesting permission to intervene and the two States Parties in the case before deciding whether the Application for permission to intervene should be granted. Those sittings were held on 25, 26, 28 and 29 June 2001.

At the time of preparation of this *Yearbook*, the Court was deliberating on its Judgment.

(m) *Discontinuance*

(Statute, Art. 48; Rules, Art. 89, paras. 2 and 3)

In each of the cases concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda)*, the applicant State notified the Court that it wished to discontinue the proceedings (reserving the right "to invoke subsequently new grounds of jurisdiction of the Court"). After the respondent Party in each of the cases had informed the Court that it concurred in the discontinuance, the Court made an Order recording the discontinuance and directing the removal of the case from the List (see above, p. 286).

(n) *Separate and dissenting opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* four judges and one judge *ad hoc* appended separate opinions to the Judgment of the Court; three judges appended a joint dissenting opinion; and three judges appended declarations.

In the *LaGrand (Germany* v. *United States of America)* case, the President appended a declaration to the Judgment of the Court; the Vice-President and two judges appended separate opinions.

To the Order of the Court on the request for the indication of provisional measures in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)*, two judges and one of the judges *ad hoc* appended declarations; two judges appended separate opinions, while one judge and the other judge *ad hoc* appended dissenting opinions.

(o) *Reading of the decision of the Court*

(i) *Judgments*

(Statute, Art. 58; Rules, Art. 94)

The Judgments of the Court in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and *LaGrand (Germany* v. *United States of America)*, were read at a public sitting; in view of the length of the text, the President omitted or summarized certain passages.

(ii) *Order*

The Order on the request for the indication of provisional measures in the case concerning the *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo* v. *Belgium)* was also read at a public sitting, by the President.

(p) *Interpretation*

(Statute, Art. 60; Rules, Arts. 98 and 100)

In the case concerning *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*, at the public sitting held on 17 February 1999 in order to hear in open court the solemn declarations required to be made by the judges *ad hoc* appointed by the Parties, the President of the Court made the following statement:

> "A request for interpretation, inasmuch as it is submitted in an instrument instituting proceedings, does not fall within the category of incidental proceedings; it gives rise to a new case. Nigeria's request is therefore procedurally independent from the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*, currently pending before the Court."

(q) *Revision*

(Statute, Art. 61; Rules, Arts. 99 and 100)

During the period under review the second request for revision of a judgment of the Court was made, i.e., with regard to the Court's Judgment of 11 July 1996 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia), Preliminary Objections* (see above, p. 295). A combined request for revision and interpretation was previously filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

III. MUSEUM OF THE COURT

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions in the Peace Palace) situated in the south wing of the Peace Palace.

Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the consequent construction of the Peace Palace as a seat for International Justice; and the Permanent Court of International Justice and the present Court (the genesis of the United Nations; the Court, and its Registry; the attire of the Judges; the Bench at present; the provenance of Judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors).

IV. VISITS

A. Official Visits of Heads of State

On 9 October 2000 H.E. Mr. Fernando Henrique Cardoso, President of the Federative Republic of Brazil, was received by the Court. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps and representatives of the Dutch authorities, the Permanent Court of Arbitration, the Iran-United States Claims Tribunal, the International Criminal Tribunal for the former Yugoslavia and other international institutions located in The Hague, the President of the Court made a speech to which the President of the Federative Republic of Brazil replied. President Guillaume stated that Brazil played "an important role in the construction of an international community founded on mutual respect, desire for peace and the rule of law". It was, moreover, to a Brazilian delegate, Raul Fernandes, that the concept of the optional compulsory jurisdiction mechanism was owed. First adopted in 1922 for the Permanent Court of International Justice (the predecessor of the International Court of Justice under the League of Nations), this system was readopted in 1945 for the International Court of Justice. "The 'Fernandes clause' has thus had the merit, not only of having represented a historic step forward for international law, but also of constituting today, for 62 States, one of the bases of the Court's jurisdiction", according to the President. President Guillaume then evoked the work of Rui Barbosa, writer and liberal politician who played a part in the proclamation of the Brazilian Republic in 1889 and was elected Judge of the Permanent

Court of International Justice in 1921. He further paid tribute to the four Brazilians (Judges Philadelpho de Azevedo, Levi Carneiro, José Sette-Camara and, currently, Francisco Rezek) who were elected Members of the International Court of Justice. For his part, President Cardoso reaffirmed Brazil's commitment to the International Court of Justice, "not only because of the ideal of the primacy of the law in inter-State relations — which is its raison d'être — but also by virtue of the history of Brazilian participation in that institution". He stressed that the work of the Brazilian jurists who had been Members of the Permanent Court of International Justice and of the International Court of Justice showed "how much Brazilian thought and diplomatic action were rooted in the adherence of [that country] to international law". "For adherence to principles is easy and does not require much effort as long as one sticks to rhetoric; but it is in the practice, in the concrete decisions of foreign policy that it requires a greatness of vision and firm objectives in order to ensure the primacy of the rules of international law", the President of Brazil stated, adding that it was "imperative that unilateralism and recourse to force be supplanted by the strengthening of multilateral institutions providing a source of legality and legitimacy for actions in support of peace and the pacific settlement of disputes".

On 19 March 2001 H.E. Mrs. Chandrika Bandaranaike Kumaratunga, President of the Democratic Socialist Republic of Sri Lanka, was received by the Court. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps, representatives of the Dutch authorities, the Permanent Court of Arbitration, the International Criminal Tribunal for the former Yugoslavia (ICTY), the Iran-United States Claims Tribunal and other international institutions located in The Hague, the President of the Court made a speech, to which the President of Sri Lanka replied. The texts of the speech delivered by the President of the Court can be found (in English and in French) on the website of the Court; that of the President of Sri Lanka is also available (in French only). After the solemn sitting, Mrs. Kumaratunga, accompanied by her delegation and by Members of the Court, was escorted to the New Wing, situated at the back of the Peace Palace, in order to unveil a bronze plaque, a gift by her country to the International Court of Justice. She made a short statement to explain the theme of the bronze, which depicts two warring chieftains breaking their weapons at the foot of the Buddha. The President of the Court replied and presented gifts to Mrs. Kumaratunga on behalf of the Court.

B. Other Visits

During the period under review the President and Members of the Court, the Registrar and officials of the Registry received further a number of visits of, *inter alia*, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials. A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, were also received.

V. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the fifty-fifth session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1999 to 31 July 2000 (A/55/4). This report was divided into an introductory summary and nine further chapters, relating to the organization, jurisdiction and judicial work of the Court, visits, lectures, the Court's publications and documents and its finances. The General Assembly took note of the report at its 41st plenary meeting held on 26 October 2000.

On that occasion the President, who, with the Registrar, represented the Court at the fifty-fifth session of the General Assembly, addressed that body on the role and functioning of the Court (A/55/PV.41). The full text of the address is reproduced in the Appendix to this Chapter (see below pp. 319-326). Following the presentation of the Court's report by its President, the representatives of Japan, Costa Rica, Singapore, India, Guatemala, Nigeria, Pakistan, Peru, Lesotho, Qatar, Brazil and Mexico made statements. Those Members of the Court who were present in New York also attended part of the fifty-fifth session of the General Assembly.

A report dealing with the period 1 August 2000 to 31 July 2001 will be submitted on the occasion of the fifty-sixth session of the General Assembly (A/56/4).

VI. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 2000 and 31 July 2001 the Court received approximately 2,000 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

1. ACTION PURSUANT TO ADVISORY OPINIONS OF THE COURT

The present heading contains the information received in the Registry between 1 August 2000 and 31 July 2001 concerning action taken pursuant to certain Advisory Opinions of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996[1] to the General Assembly (United Nations doc. A/51/218).

At the 79th plenary meeting of its fifty-first session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, at the 67th plenary meeting of its fifty-second session, held on 9 December 1997, resolution 52/38 O, at the 79th plenary meeting of its fifty-third session, held on 4 December 1998, resolution 53/77 W, and at the 69th plenary meeting of its fifty-fourth session, held on 1 December 1999, resolution 54/54 Q, the full texts of which are reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206, *I.C.J. Yearbook 1997-1998*, pp. 286-288, *I.C.J. Yearbook 1998-1999*, pp. 313-315, and *I.C.J. Yearbook 1999-2000*, pp. 278-280, respectively.

At the 69th plenary meeting of its fifty-fifth session, held on 20 November 2000, the General Assembly adopted resolution 55/33 X, the full text of which reads as follows:

> "Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*
>
> *The General Assembly*,
>
> *Recalling* its resolutions 49/75 K of 15 December 1994, 51/45 M of 10 December 1996, 52/38 O of 9 December 1997, 53/77 W of 4 December 1998 and 54/54 Q of 1 December 1999,
>
> *Convinced* that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on Earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,
>
> *Reaffirming* the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,
>
> *Mindful* of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament,

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[1] See *I.C.J. Yearbook 1995-1996*, pp. 212-223.

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Welcoming the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament,

Recalling the adoption of the Comprehensive Nuclear-Test-Ban Treaty in its resolution 50/245 of 10 September 1996, and expressing its satisfaction at the increasing number of States that have signed and ratified the Treaty,

Recognizing with satisfaction that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Noting the efforts by the States possessing the largest inventories of nuclear weapons to reduce their stockpiles of such weapons through bilateral agreements or arrangements and unilateral decisions, and calling for the intensification of such efforts to accelerate the significant reduction of nuclear-weapon arsenals,

Recognizing the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the single multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference on Disarmament during its 2000 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

Taking note of the relevant portions of the note by the Secretary-General relating to the implementation of resolution 54/54 Q,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading

to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States immediately to fulfil that obligation by commencing multilateral negotiations in 2001 leading to an early conclusion of a convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its fifty-sixth session;

4. *Decides* to include in the provisional agenda of its fifty-sixth session the item entitled "Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*". *[Footnotes not reproduced.]*

2. The Role and Functioning of the Court

At the 41st meeting of the fifty-fifth session of the General Assembly, held on 26 October 2000, at which the Assembly took note of the report of the Court for the period from 1 August 1999 to 31 July 2000 (see above, p. 316), the President of the Court, Judge Gilbert Guillaume, gave the following address:

"Mr. President, Excellencies, Ladies, Gentlemen,

It is an honour for me to address the United Nations General Assembly today on the occasion of its examination of the report of the International Court of Justice for the period 1 August 1999 to 31 July 2000.

I am particularly pleased to address you under the distinguished presidency of Mr. Harri Holkeri, whose political experience, talents as mediator and feeling for consensus will be precious assets for the Assembly. Over the last decades Finland has displayed great wisdom in sometimes sensitive circumstances. Recently we in The Hague witnessed further evidence of this, when, in accordance with our expressed desire, Finland came to a friendly settlement in 1992 of its dispute with Denmark over the construction of a bridge over the Great Belt. It is now the turn of the General Assembly, after the Court, to enjoy the benefit of this wisdom.

Mr. President,

My predecessors on this rostrum, particularly the most recent of them, Presidents Bedjaoui and Schwebel, have offered an annual review of the Court's activities, as well as of the progress achieved, and problems encountered, by international justice. This firmly established tradition is to be commended and I am most honoured to speak in turn to your Assembly.

I will not impose on the Assembly a further reading of the written report already submitted to it. This year, for the first time, the report was preceded by a summary, which, I hope, you will have found useful. I will nevertheless point out that the Court worked at a sustained pace over the past year. First, by a Judgment of 15 December 1999, it ruled in a dispute that had been submitted to it in May 1996 by Botswana and Namibia concerning the island of Kasikili/Sedudu. It held that the island belonged to Botswana but stated that nationals of, and vessels flying the flags of, Botswana and Namibia were to enjoy equal national treatment in the two channels around the island.

Next, by a Judgment of 21 June 2000, the Court held that it lacked jurisdiction to rule on the Application filed in September 1999 by Pakistan against India as a result of the destruction of a Pakistani aircraft. The Court did, however, remind the Parties of their obligation to settle their disputes by peaceful means, in accordance with Article 33 of the Charter.

Acting on a request by the Democratic Republic of the Congo for the indication of provisional measures against Uganda, the Court on 1 July 2000 indicated various measures to be taken by the two Parties, especially in the area of Kisangani. The Court also made ten Orders and heard five weeks of oral argument in the case between Qatar and Bahrain. Finally, it has begun its deliberations in that case. It has also set a date for hearings in November of this year in the *LaGrand* case between Germany and the United States of America, as well as on a request for the indication of provisional measures made by the Democratic Republic of the Congo against Belgium.

Thus, the Court has been able to consider or commence its consideration of all cases that were ready for hearing. Unfortunately, the coming months promise to be more difficult. Thus, while ten cases appeared on the Court's List in 1994 and 12 in 1998, we saw an increase to 25 at the end of 1999, a new record in the annals of international justice, and 24 remain on the docket today.

These cases cover a very wide range. Four of them concern land or maritime boundary disputes between neighbouring States. They involve: Qatar and Bahrain, Cameroon and Nigeria, Indonesia and Malaysia, and Nicaragua and Honduras. This is a classic, but complex, kind of dispute, calling for detailed examination of numerous geographical and historical factors and requiring a solution to thorny legal problems. But this is also the kind of dispute in which the Court has in the past played, and continues to play, an important role and makes an eminent contribution to maintaining international peace and security.

Another classic sort of dispute involves cases in which a State complains before the Court of the manner in which one of its nationals has been treated by another State. Three cases in this category are now on our List: one between Germany and the United States, the second between Guinea and the Democratic Republic of the Congo and the third, filed last week, between the Democratic Republic of the Congo and Belgium. The case concerning the Gabčikovo-Nagymaros dams (Hungary/Slovakia) involves a dispute over a river, of a kind also familiar to the Court. The Court rendered a Judgment in principle in that case in 1997 and the Parties are now working to agree on the modalities for implementing it.

Other cases relate to events that have also been the subject of discussions, recommendations or decisions of the General Assembly or Security Council. The Libyan Arab Jamahiriya has brought cases before the Court concerning disputes between it and the United States and the United Kingdom relating to the explosion of an American civil aircraft over Lockerbie, Scotland. The Islamic Republic of Iran has brought proceedings before the Court concerning the destruction of oil platforms by the United States in 1987 and 1988. By two separate Applications, Bosnia and Herzegovina and Croatia have sought rulings against Yugoslavia for violating the 1948 Genocide Convention. Yugoslavia itself is proceeding against ten NATO member States, challenging the legality of their actions in Kosovo. Two of those Applications were dismissed *in limine litis* on the basis of a manifest lack of jurisdiction. Eight remain to be considered. Finally, the Democratic Republic of the Congo has claimed before the Court that it has been the victim of armed aggression by Burundi, Uganda and Rwanda.

As we can see, these disputes come from all corners of the world. Ten of them are between European States (concerning the Balkan situation for the most part), one relates to Latin America and two to Asia. Six are intercontinental in nature and five relate solely to African States. The Court is particularly pleased to note that African States are turning ever more frequently to it.

Much attention has been given to the reasons for the International Court's renewed vitality. Various technical factors have been advanced: the establishment of Chambers of the Court; improved procedures; creation by the United Nations Secretary-General of a fund to provide assistance in the judicial settlement of disputes; the Court's development of jurisprudence inspiring greater confidence on the part of States. Each of these factors has played a role, but I believe that the essential reason is to be found elsewhere. History shows that judicial settlement is more easily accepted, and is even in greater demand, when the international arena is calmer. Conversely, in periods of heightened tension, States are less inclined to have recourse to courts. The Permanent Court of International Justice heard many cases during the 1920s, but its courtroom fell silent in the 1930s. The International Court of Justice also saw limited activity in the 1970s; it is called upon more often and is more active today than ever before.

Aware of this development and anxious to adapt to it, the Court has for several years been taking those measures within its power to respond to this situation. First, it set up a committee responsible for rationalizing the work of the Registry. The committee recommended various reorganizational measures that have been progressively implemented. The Court has also taken giant steps in modernizing its working and communication methods through use of new information technologies, including the launching of a highly successful website receiving an average of nearly 2,000 visits daily.

The Court has also sought increased co-operation from the parties in the functioning of justice. In particular, it has informed them of its desire to see a decrease in the number of memorials exchanged, in the volume of the annexes to the memorials and in the length of the oral arguments. The Court's comments have had the desired effect in some new cases. In the case between Germany and the United States, the Court was thus glad to see the number of written memorials limited to one pleading from each Party and the oral arguments limited to one week. In other cases, however, the case files remain disturbingly voluminous. Thus, the case file in the Bosnia and Herzegovina *v.* Yugoslavia case is several thousand pages long and one of the Parties has sought to call hundreds of witnesses. In addition, the proliferation of preliminary objections, counter-claims and requests for the indication of provisional measures has encumbered many cases.

In 1997 the Court adopted various decisions concerning its own deliberations; President Schwebel reported on these to the Assembly at that time. The Court has pursued this course. While the judges ordinarily prepare written Notes setting out their opinions before all deliberations, this procedure has been abandoned on an experimental basis not only for the consideration of urgent requests for provisional measures but also in cases concerning the Court's jurisdiction or the admissibility of Applications. On several occasions the Court has begun the consideration of several cases at the same time. Thus, last June, at the very time when Bahrain and Qatar were presenting their oral arguments, the Court was deliberating on the case between India and Pakistan and the provisional measures sought by the Democratic Republic of the Congo against Uganda.

These steps will not, however, be enough to cope with the situation in coming years.

The Court's financial and human resources are no longer sufficient for it to fulfil its task properly. If it does not receive the necessary resources, it will find itself obliged, beginning in 2001, to delay passing judgment in a number of cases that will be ready for decision. From 2002, those delays may well last several years in some cases.

This is not an acceptable state of affairs. Justice so delayed is justice denied. What is more, such long delays will impinge not only on the Court's role in resolving disputes but also its function in preventing and resolving international crises and, to be frank, in maintaining peace and security.

The Court is well aware of the financial difficulties encountered by the United Nations. It has taken these into account in the past in limiting its requests and it is sincerely grateful to the Assembly for having granted it four additional posts in 1999. The current growth in litigation will however require much greater increases in staff. Unlike other United Nations organs, the Court cannot adapt its programmes to its available resources. Its resources must be adjusted to meet the legitimate expectations of the States that turn to it.

The Advisory Committee on Administrative and Budgetary Questions (ACABQ) was conscious of this in 1999, for it commended the Court at that time 'for action taken to address increasing workload in the context of budgetary stringency' and recommended 'that the resource implications of the dramatic increase in the number of cases before the Court be reviewed in order to ensure that the ability of the Court to discharge its mandate is not adversely affected' (doc. A/54/7). The General Assembly itself noted with concern at the time the Court's most recent budget was adopted:

> 'that the resources proposed for the International Court of Justice are not proportionate with the workload envisaged, and request[ed] the Secretary-General to propose adequate resources for this section in the context of the proposed programme budget for the biennium 2002-2003, commensurate with its increased workload and the large backlog of volumes of Court documents' (resolution 54/249, 23 December 1999).

The Court's annual budget is now slightly over 10 million US dollars. That is less than 1 per cent of the Organization's budget, which is lower than the comparable percentage in 1946. The budget could be compared with that of the Criminal Tribunal for the former Yugoslavia, nearly 100 million dollars for the year 2000, or roughly 10 times the Court's budget. The Tribunal's Registry employs some 800 staff members, while the Court's has only 61.

Admittedly, the two courts have different missions, which are not wholly comparable. But these figures provide ample proof that States have the ability to support the work of international courts when they desire to do so.

To meet its needs, the Court will request supplementary credits and a budget increase on the order of 3 million dollars per year for the next biennium, 2002-2003. Its budget would thus increase to slightly more than 26 million dollars and 38 posts would be added to its staff.

Having to deal with case files some of which run to 5,000 to 7,000 pages and to conduct the lengthy hearings that are sometimes unavoidable, the judges will be unable to deliberate on more than two or three cases per year if they do not receive appropriate assistance. Most national supreme courts provide law clerks to assist the judges by *inter alia* conducting the necessary research in the case-law and scholarly literature. The same is true in most international courts: the European Court of Justice (where each judge is assisted by three clerks), the European Court of Human Rights (for which the creation of law clerk positions is provided for in Protocol No. 11 to the Convention), the Criminal Tribunal for the former Yugoslavia (where each judge has a clerk). The same arrangement is needed at the International Court of Justice.

For its part, the Registry will be unable to perform its work without a significant increase in its staff. The Linguistic Department has only six posts (including that of the Head of Department). The Finance Division has only two professional-grade posts, as does the Department of Press and Information Matters. Several Heads of Department do not have secretaries and some judges must share a secretary. Although the President does have a secretary, he does not enjoy any other administrative or legal assistance. I am thus obliged to sound the alarm before you today. In many countries, the judiciary presides in sumptuous historic monuments but at times lacks the financial resources necessary for its mission. That is the case of the International Court of Justice. It is for you to decide whether the Court, the principal judicial organ of the United Nations, is to die a slow death or whether you will give it the wherewithal to live.

Mr. President, Ladies, Gentlemen.

I do not however wish to stop there in this examination of the International Court's position.

There is a problem which my predecessors also pointed out and I would like to bring this to your attention today: the problem raised for international law and the international community by the proliferation of international courts.

This phenomenon is in part a response to changes in international relations. It reflects greater confidence in justice and makes it possible for international law to develop in ever more varied spheres.

It does however bring with it problems which I will address in more detail before your Sixth Committee. First, it leads to cases of overlapping jurisdiction, opening the way for applicant States to seek out those courts which they believe, rightly or wrongly, to be more amenable to their arguments. This forum shopping, as it is usually called, may indeed stimulate the judicial imagination, but it can also generate unwanted confusion. Above all, it can distort the operation of justice, which, in my view, should not be made subject to the law of the marketplace.

Overlapping jurisdiction also exacerbates the risk of conflicting judgments, as a given issue may be submitted to two courts at the same time and they may hand down inconsistent judgments. National legal systems have long had to confront these problems. They have resolved them by, for the most part, creating courts of appeal and review. In this regard, the international system is very deficient.

Finally, the proliferation of international courts gives rise to a serious risk of conflicting jurisprudence, as the same rule of law might be given different interpretations in different cases. This is a particularly acute risk, as we are dealing with specialized courts that are inclined to favour their own disciplines. Several examples of this may already be cited. Thus, in ruling on the merits in the *Tadić* case, the International Criminal Tribunal for the former Yugoslavia recently disregarded case-law formulated by the International Court of Justice in the dispute between Nicaragua and the United States of America. The Court had found that the United States could not be held responsible for acts committed by the contras in Nicaragua unless it had had 'effective control' over them. After criticizing the view taken by the Court, the Tribunal adopted a less strict standard for Yugoslavia's actions in Bosnia and Herzegovina and replaced the notion of 'effective control' with that of 'overall control', thereby broadening the range of circumstances in which a State's responsibility may be engaged on account of its actions on foreign territory.

Regardless of what one might think of this solution, the contradiction thus created gives clear evidence of the risks to the cohesiveness of international law raised by the proliferation of courts.

What can be done to ensure that this situation does not give rise to serious uncertainty as to the content of the law in the minds of players on the international stage and does not ultimately restrict the role of international law in inter-State relations?

An initial comment on this point would appear necessary. Before creating a new court, the international legislator should, I think, ask itself whether the functions it intends to entrust to the court could not properly be fulfilled by an existing court.

Judges themselves must realize the danger of fragmentation in the law, and even conflicts of case-law, born of the proliferation of courts. A dialogue among judicial bodies is crucial. The International Court of Justice, the principal judicial organ of the United Nations, stands ready to apply itself to this end if it receives the necessary resources.

Relying exclusively on the wisdom of judges might not be enough however. The relationships among international courts should, in my view, be better structured.

With this in mind, it has at times been suggested that the Court should serve as a court of appeal or review for judgments rendered by all other courts. This would however require a strong political will on the part of States and I am not certain that such a will exists.

Another mechanism was referred to last year by my predecessor, in this very hall, and I believe it appropriate to come back to it today. In order to reduce the risk of differing interpretations of international law, would it not be appropriate to encourage the various courts to seek advisory opinions in some cases from the Court, by way of the Security Council or the General Assembly?

This procedure could be adopted even for those international courts that are not organs of the United Nations, such as the International Tribunal for the Law of the Sea and the future International Criminal Court. The Council of the League of Nations made requests for advisory opinions on behalf of other international organizations and it is difficult to see why the General Assembly could not do the same. Perhaps it could, by means of an appropriate resolution, urge not only the courts it has established but also those outside the United Nations system to turn to the Court through the General Assembly.

Mr. President, Excellencies, Ladies, Gentlemen,

The international community needs courts. It needs courts which have at their disposal the resources necessary to perform their functions. It needs courts acting in the service of the law. I assure you that the International Court of Justice will continue in this spirit to perform those duties which it currently bears and stands ready to fulfil such others as may be entrusted to it. It is counting on your assistance to achieve those ends."

On 27 October 2000, President Guillaume gave the following address to the Sixth Committee of the General Assembly:

"The Proliferation of International Judicial Bodies: the Outlook for the International Legal Order

Mr. Chairman, Ladies and Gentlemen,

It is with great pleasure that I again find myself today, under your Chairmanship, addressing the Sixth Committee of the General Assembly, where I formerly appeared regularly as representative of France. It is also, for me personally, a signal honour to address the Committee for the first time as President of the International Court of Justice. I feel that it would be useful to take this opportunity to discuss with you a phenomenon currently of substantial concern among both academics and legal practitioners, namely the proliferation of international judicial bodies and its impact on international law.

Created in 1920, the Permanent Court of International Justice was for long the only player on the international judicial stage. Its replacement by the International Court of Justice more or less coincided with the development of new judicial fora, initially at regional level, then at global level. In 1950, the European Court of

Human Rights was set up, then, in 1957, the European Court of Justice, whilst the Inter-American Court of Human Rights rendered its first decision in 1981.

Over the last two decades this process has quickened and taken on a global aspect. In 1982, the United Nations Convention on the Law of the Sea gave birth to the International Tribunal for the Law of the Sea, which became operational in 1996. Meanwhile, in 1994 we had the Marrakesh Agreement, out of which was to come the quasi-judicial dispute settlement mechanism of the World Trade Organization (WTO). I should also mention at this point the agreements currently undergoing ratification which could in due course lead to the creation of an African Court of Human Rights and the International Criminal Court.

In parallel with these developments, the last 20 years have seen the establishment of a number of *ad hoc* tribunals, such as the Iran-United States Claims Tribunal, or the International Criminal Tribunals for the former Yugoslavia and Rwanda. Thus we are now seeing a multiplication, not to say a proliferation, of international judicial bodies.

This development has to be viewed in the context of more far-reaching changes in international relations. Thus the second half of the twentieth century has witnessed an expansion and diversification in the ways in which States relate to one another. The areas in which they co-operate have undergone a substantial expansion: security, education, economics, the environment, scientific research, communications, transport, etc. Nowadays there seems to be no area which is not covered.

At the same time, the non-State players — commercial companies, non-governmental organizations (NGOs), private individuals — engage increasingly in transnational activities, thus demonstrating how permeable frontiers are. Moreover, these cross-frontier transactions — in the wide sense of the word — have themselves become more diverse. This trend will undoubtedly intensify with new technological advances, for example in the field of telecommunications.

This dual expansion in inter-State relations and cross-frontier transactions, in terms both of subject-matter and of frequency, has inevitably rendered it necessary, if not essential, to make all these relationships subject to the rule of law. As a result, new areas have been opened up to international law, whilst new players have entered the arena. The proliferation of courts may be perceived as a process of adaptation to these fundamental changes.

On the one hand, the diversification of the areas governed by international law has rendered that law more complex and more diverse. Thus human rights, environmental law, economic law, the law of the sea or space law are sometimes regarded today as specialized branches of international law. Application of the specific legal rules governing these areas may require greater in-depth knowledge of science, economics or whatever. At the same time, the need to have certain types of inter-State dispute adjudicated by bodies more sensitive to specific local conditions has led to the creation of tribunals whose composition is determined at regional level.

Further, the growth in cross-frontier transactions has led to the arrival on the international law scene of new categories of player. However, the model for the settlement of inter-State disputes, while it may still be valid in many cases, was not designed with these new players in mind. As a result, there is growing pressure to have those players participate in the judicial process where it involves them[1]. That pressure has not been without consequences in the economic field, as can be seen from the constitution of the Luxembourg Court, or the decisions where the body responsible for settling WTO disputes has recently accepted the intervention of an NGO as *amicus curiae*[2]. The same has occurred with human rights. Thus, natural persons, NGOs or groups of individuals may today bring cases before the Strasbourg Court[3].

In sum, it would appear that the proliferation of judicial bodies in large measure responds to recent developments in the international community. It has, however, had certain unfortunate consequences, which I should now like to analyse before considering possible solutions to the problem thus posed.

The proliferation of international fora is already influencing the operation of international law, both in procedural terms and as regards the actual content of that law. Its long-term consequences should not be underestimated.

In the first place, it is to be noted that, as international tribunals have multiplied, so the risks of overlapping jurisdictions have increased. And in fact today these risks have become reality. In the first half of the twentieth century, States already had the option of going to arbitration or taking their case to the Permanent Court of International Justice. The proliferation of courts has created a whole range of other possibilities, and in a sense opened the way to a form of inter-institutional 'competition'. Thus, under Articles 287 and 288 of the Montego Bay Convention, the Hamburg Tribunal for the Law of the Sea may be given jurisdiction to hear cases relating to the application of that Convention[4], even though the International

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[1] C. P. R. Romano, "The Proliferation of International Judicial Bodies: The Pieces of the Puzzle", 31 *NYUJ Int'l L. & Pol.* 170.

[2] See the interpretation of Article 13, Annex 2, of the General Agreement on Tariffs and Trade, Understanding on Rules and Procedures Governing the Settlement of Disputes, in the *Shrimps Case* (*United States — Prohibition on the Importation of Certain Shrimps and Certain Shrimp-Based Products*).

[3] Article 34 of the Convention, as amended by the 11th Protocol, which entered into force on 11 November 1999.

[4] Articles 287-288, United Nations Convention on the Law of the Sea; Annex VI, Statute of the International Tribunal for the Law of the Sea.

Court of Justice also has jurisdiction in this area[1]. It is, indeed, to the Court that States have traditionally brought their disputes of a maritime character, from the *'Lotus'* and *Icelandic Fisheries* cases to the numerous maritime delimitations with which it has dealt[2]. This is a situation which recurs in a number of other areas and affects a number of other institutions. It obliges us to examine two of the customary consequences of overlapping jurisdictions: on the one hand *'forum shopping'*, and on the other conflicting decisions.

The first consequence of a proliferation of courts is that it permits litigants to choose from among a range of judicial bodies, thus opening the door to what is often called in 'franglais' *'forum shopping'*. The existence of several fora capable of declaring themselves competent to hear a particular dispute enables the parties — more often than not the applicant acting unilaterally — to select the forum which best suits them. Considerations concerning access to the court, the procedure followed, the court's composition, its case-law, or its power to make certain types of order generally underlie the choice to be made. To take a concrete example, it is not beyond the bounds of possibility that, in the *Blue Fin Tuna* case[3], the main reason the applicant proceeded before the Law of the Sea Tribunal was the ready enforceability of the measures which it sought[4]. It is worthy of note that, while the Law of the Sea Tribunal did grant provisional measures, these were subsequently revoked by the arbitral tribunal seised of the merits of the dispute.

While *'forum shopping'* may doubtless foster a certain spirit of competition between courts and stimulate their imagination, it nonetheless does have negative consequences, which need to be pointed out. The choice of court may, for example, be motivated by the fact that the case-law of a particular court happens to be more favourable to certain doctrines, concepts or interests than that of another. Every judicial body tends — whether or not consciously — to assess its value by reference to the frequency with which it is seised. Certain courts could, as a result, be led to tailor their decisions so as to encourage a growth in their caseload, to the detriment of a more objective approach to justice. Such a development would be profoundly damaging to international justice.

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[1] *Op. cit.* footnote 4, p. 328.

[2] See, for example, *Fisheries Jurisdiction (United Kingdom v. Iceland)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Fisheries Jurisdiction (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*; *Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway)*; *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)*; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*.

[3] (New Zealand *v.* Japan), Case No. 3; (Australia *v.* Japan), Case No. 4, Order of 27 August 1999.

[4] Suggestion raised by Professor Benedict Kingsbury, "Is the Proliferation of International Courts and Tribunals a Systematic Problem?", 31 *NYUJ Int'l L. & Pol.* 679, p. 685.

Overlapping jurisdictions have a second worrying consequence. In effect, they not only create a choice of courts — not to say a market — for the parties concerned, but they also increase the risk of conflicting judgments. Thus two courts may be seised concurrently of the same issue and render contradictory decisions. Systems of national law have for long had to deal with such problems. They have solved them by two methods: on the one hand, the development of a clear hierarchy among courts, on the other, the formulation of rules on litispendency and *res judicata*. By contrast, the international system is sadly lacking in this regard.

In the existing order, however, it is essential that the various international courts take steps to co-ordinate the exercise of their individual jurisdictions where more than one court considers itself competent to hear a dispute. This work of co-ordination is very much dependent on the attitude of the judges, and on their ability to determine their own competence while keeping in mind their position within the international framework. For example, in its first case, the International Criminal Tribunal for the former Yugoslavia considered the issue of the legality of its creation and itself settled this question, answering it in the affirmative[1]. It is difficult to see, however, how the Tribunal could have given a negative reply to this question, thus signing its own death warrant, and we might ask ourselves whether it would not have been more appropriate for it to have asked the Security Council to seek an advisory opinion on this question from the International Court of Justice, principal judicial organ of the United Nations.

More generally, in a case where two courts, both fully competent, are seised of the same dispute, should one of them not withdraw? And what then should be the criteria for this choice? How should the respective jurisdictions be determined where the overlap involves only one of the issues in dispute, whilst the other points fall clearly within the exclusive jurisdiction of one of the courts seised? Finally, and above all, how to ensure coherence in relation to *res judicata* as between different judicial fora, so as to guarantee the integrity of the decisions rendered?

All of these questions need answering. But no answer can be given as things currently stand, any more than instant solutions can be found for the problems arising from the proliferation of international courts in relation to substantive issues of law.

Proliferation has led to a significant increase in the number of cases coming before courts in an increasing number of fields, thus contributing to the development of international law and to its enrichment. This is a phenomenon which one is bound to welcome.

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[1] See *Prosecutor* v. *Dusko Tadić* (2 October 1995).

Nonetheless, the proliferation of international courts engenders serious risks of inconsistency within the case-law. Admittedly, the courts have shown themselves anxious to avoid such inconsistency. Thus, the International Court of Justice keeps careful track of the judgments rendered by other courts and tends increasingly to make reference to them. I have noted, in all, some 15 Judgments of the Court containing such references. For example, in the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*[1], the Court, in 1992, referred to a 1917 Judgment of the Central American Court of Justice, whilst in the case concerning *Maritime Delimitation in the Area between Greenland and Jan Mayen*[2], the Court, in 1993, analysed an award handed down in 1977 by the Anglo-French Court of Arbitration regarding the *Mer d'Iroise*, adopting the award's reasoning. More recently, in the *Kasikili/Sedudu Island* case between Botswana and Namibia, the Court found support for its decision in the Arbitral Award rendered in the *Laguna del Desierto* case between Chile and Argentina[3].

By the same token, certain specialized courts have frequently drawn on the jurisprudence of our Court or of its predecessor. The Inter-American Court of Human Rights has quoted abundantly from the *Chorzów Factory*, *"Lotus"* and *Corfu Channel* cases, whilst the International Criminal Tribunal for the former Yugoslavia has made a number of references to the Court's decision in the *Barcelona Traction* case. The body responsible for settling WTO disputes has made frequent reference to the case-law of our Court. Thus, in its recent decision on *European Community Measures regarding Hormones*[4], it took account of the Court's findings in the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* regarding the existence of the precautionary principle. Finally, the Iran-United States Claims Tribunal has also relied to a substantial extent on our jurisprudence.

Despite these efforts, the risks of inconsistency nonetheless remain substantial. In academic circles, the issue of the unity of international law was in its time debated at length in relation to the Chambers of the International Court of Justice. The point at issue was whether these Chambers, whose composition may vary according to the wishes of the parties, were not at risk of developing their own separate case-law, with possibly chaotic results.

This issue has virtually ceased to be of current concern, with States tending nowadays to prefer to have their cases heard by the full Court. Moreover, I would make the point that the risk of a conflict of case-law is far greater when one is dealing not with separate entities established within the same forum, but with separate courts having to apply the same rules of law. This is particularly so in the case of specialized courts, which are inclined to favour their own disciplines[1]. Let me give you two examples.

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[1] Judgment of the Chamber of 11 September 1992, *I.C.J. Reports 1992*, p. 351.

[2] Judgment of 14 June 1993, *I.C.J. Reports 1993*, pp. 63 and 67.

[3] Judgment of 13 December 1999, para. 20.

[4] Decision of 16 January 1998, para. 123.

The first concerns the European Court of Human Rights and the rules for the interpretation of treaties. In the case of *Loizidou v. Turkey*, the Strasbourg Court took a position different from that of the International Court of Justice on the question of territorial reservations in declarations of compulsory jurisdiction. Our Court, like its predecessor the Permanent Court of International Justice, has consistently held that such reservations are legal and must be upheld, whereas the European Court of Human Rights has adopted a different solution[2]. Admittedly, this decision may be regarded as an instance of *lex specialis*, being founded on the specific characteristics of the system of the European Human Rights Convention[3]. However, the decision does refer to the Vienna Convention on the Law of Treaties and diverges from the case-law of the International Court of Justice in this regard.

Still more to the point, when, on 15 July 1999, the International Criminal Tribunal for the former Yugoslavia rendered its judgment on the merits in the case of *Prosecutor v. Dusko Tadić*, it expressly criticized and declined to follow a decision of the International Court of Justice. In order to determine whether it was competent, the Criminal Tribunal had to establish whether there was an international armed conflict in Bosnia and Herzegovina by showing that certain of the participants in the internal conflict which had arisen in that country were acting under the control of a foreign power, in this case Yugoslavia. In its analysis of the question, the Tribunal referred to, but did not follow, the decision of the Court in the case concerning *Military and Paramilitary Activities in and against Nicaragua*. In that case, the Court had imposed the test of effective control by the United States of the activities of the *contras*. However, the Tribunal rejected this approach, adopting a new interpretation of international law in the matter of State responsibility. It opted for a less strict criterion in relation to the imputation of responsibility, holding that, in the case of organized groups of combatants, it was sufficient to demonstrate that those groups as a whole were under the overall control of a foreign State[1]. This criterion was judged sufficient by the Tribunal to engage the responsibility of that State for the activities of the group, irrespective of whether each individual act was specifically imposed, requested or directed by the State in question[2]. In short, as these examples show, the growing specialization of international courts carries with it a serious risk: namely loss of the overall perspective. Certainly, international law must adapt itself to the variety of fields with which it has to deal, as national law has always done. It must also adapt itself to local and regional requirements. Nonetheless, it must preserve its unity and provide the players on the international stage with a secure framework. The proliferation of courts should be a source of enrichment, not of anarchy. How can this be achieved?

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[1] G. Guillaume, "La Cour internationale de Justice. Quelques propositions concrètes à l'occasion du Cinquantenaire", *RGDIP*, 1996-2, p. 331.

[2] *Loizidou* v. *Turkey* (*ECHR, Series A*, Vol. 310), at 29, paras. 83-85, 20 *EHRR*, at p. 136, cited by J. I. Charney, "Is International Law Threatened by Multiple International Tribunals?", *RCADI*, Vol. 271, 1988, pp. 162-163.

[3] J. I. Charney, "Is International Law Threatened by Multiple International Tribunals?", *RCADI*, Vol. 271, 1998, pp. 162-163.

In this connection, an initial comment is called for. Before creating a new court, the international legislator should, it seems to me, ask itself whether the functions which it wishes to entrust to that court could not properly be carried out by an existing body, as is the practice for example with the international administrative tribunals (UNAT and ILOAT). There is also the question of how to deal, within the current system, with the absence of a structured relationship between the various courts. Should we leave it to the common sense of the judges, or should some form of structural change be undertaken?

As a judge myself, I should like to be able to leave it to the discretion of court members to counteract the undesirable effects of the proliferation of courts. Thus I consider that the judges must take cognizance of the dangers of legal fragmentation, and of inconsistency in the case-law, as a result of the quasi-anarchic proliferation of international courts[3]. They must inform themselves more fully of the case-law developed by their colleagues, conduct more sustained relationships with other courts and, in a word, engage in constant inter-judicial dialogue[4]. The International Court of Justice could do this, if it had the necessary resources.

I fear, however, that this minimalist solution is not sufficient. Every institution, whether judicial or not, has a tendency to go its own separate way, and the judicial process has particular risks in this respect. It seems to me, therefore, that what needs to be done is to institutionalize relations between courts.

Courts have proliferated in an anarchic manner, without any form of relationship being established between them. Certainly, the

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[1] Judgment of the International Criminal Tribunal for the former Yugoslavia of 15 January 2000, para. 120.

[2] *Ibid.* para. 122.

[3] See G. Abi-Saab, "Fragmentation or Unification: Some Concluding Remarks", 31 *NYUJ Int'l L. & Pol.* 919, p. 927.

[4] J. Charney, "The Impact on the International Legal System of the Growth of International Courts and Tribunals", 31 *NYUJ Int'l L. & Pol.* 697, p. 707.

International Court of Justice remains the *'principal judicial organ of the United Nations'*[1] and, as a result, occupies a privileged position in the international judicial hierarchy. Moreover, it is the only court with a universal general jurisdiction. Lastly, its age endows it with special authority.

However, the mechanisms that would enable the Court to assume that status and to take on this role remain extremely limited. Thus while, for example, the International Court of Justice can act as a court of appeal from the decisions of the Council of the International Civil Aviation Organization[2], appeal or review procedures are very seldom used in the international order. Moreover, the Court has recently had its power of review over decisions of international administrative tribunals restricted[3]. In short, the possibility of seeking an advisory opinion from the International Court of Justice is currently restricted to certain organs of the United Nations and specialized agencies[4]. Given that the International Court of Justice is the sole judicial body possessing general jurisdiction, we might ask ourselves whether its powers are not too limited, in light of the role which it could and should play.

It has sometimes been suggested that the Court be entrusted with the task of acting as a court of appeal or review from judgments rendered by other international courts. This would, however, require a powerful political will on the part of States and far-reaching changes in the Court, which would need to be given substantial resources. I am not certain whether such a will exists.

An alternative solution was put forward last year by my predecessor, in his address to the General Assembly, and I think it would be helpful to bring it up again today. In order to reduce the risks of conflicting interpretations of international law, should we not encourage other international courts to seek the opinion of the Court on doubtful or important points of general international law raised in cases before them?

Such a procedure exists in European Community law under Article 234 of the Treaty of Rome (the former Article 177). It enables national courts of member States of the European Union to refer preliminary questions to the European Court of Justice, and sometimes requires them to do so. Thus the unity of Community law is assured.

Comparable procedures could be used in general international law. Thus the International Court of Justice is competent to hear requests for advisory opinions from such bodies as the Security

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[1] Article 92, United Nations Charter.

[2] Article 84, International Civil Aviation Convention (Chicago, 1944).

[3] I am referring to the abrogation of Article 11 of the Statute of the United Nations Administrative Tribunal, which allowed the Tribunal's decisions to be referred for review to the ICJ.

[4] Article 96, United Nations Charter.

Council and the General Assembly. Hence, those international courts which are organs of the United Nations, such as the tribunals charged with prosecuting those responsible for war crimes committed in the former Yugoslavia or in Rwanda, could ask the Security Council to seek advisory opinions on their behalf from the Court. The United Nations Administrative Tribunal could do likewise through the General Assembly.

As regards international courts which are not organs of the United Nations, as for example the International Tribunal for the Law of the Sea or the future International Criminal Court, the same solution could be adopted. This was formerly the practice of the Council of the League of Nations, which sought opinions from the Court on behalf *inter alia* of other international bodies, even though the Covenant of the League of Nations made no provision for this. It would be open to the General Assembly to do likewise tomorrow on behalf of various judicial bodies. Perhaps the General Assembly might encourage those bodies in this regard.

In conclusion, I wish simply to say once more that the proliferation of courts presents us with risks, the seriousness of which it would be unwise to underestimate. In my view, to leave it to the common sense of the judges to deal with these consequences may well prove insufficient. What needs to be done is to determine the relative positions of the new judicial bodies within the modern international framework and, to this end, to establish new links between these bodies. This seems to me to be essential, if the law is to remain coherent, and to continue to operate to the benefit of all members of the international community.

In the words of the English poet John Donne: "No man is an island, entire of itself. Every man is piece of the continent, a part of the main." I should like to take over this image and to propose to you that it be applied also to the players on the international stage. Thus we must work together to instil, into each and every international judicial body, awareness of the fact that it is but one part of a single whole and never an end in itself. I can assure you that it is the wish of the International Court of Justice to remain faithful to this ideal, an ideal in which I hope that all will share."

On 1 November 2000, the President of the Court addressed the Security Council, at a private session, on the relations between the Court and the Council.

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 (*i*), and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. General

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

An analytical index is published for each year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one or two volumes.

Fifty-one bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest is the volume for 1997. (The *I.C.J. Reports 1965, 1967, 1968, 1977, 1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 344-356, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above; see pp. 187-188.

[2] See Chap. V, pp. 193-194, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, *e.g.*, *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 361-369, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

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[1] See Chap. V, pp. 190 and 199, above.

[2] *Ibid.*, pp. 190-191, above.

[3] *Ibid.*, pp. 191-192, above.

(d) *Yearbook*

Each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the fifty-fifth in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 36 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 49 (year 1995).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.
Tel.: 1-212-963 8302; Fax: 1-212-963 3489
E-mail: publications@un.org
or
United Nations, Room C-115, Palais des Nations,
8-14 avenue de la Paix, 1211 Geneva 10, Switzerland.
Tel.: 41-22-917 2614; Fax: 41-22-917 0027
E-mail: unpubli@unog.ch

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. *Publications of the Permanent Court of International Justice*

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)
Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)
Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)
Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)
Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)
Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*
Series E (Nos. 1-16): *Annual Reports*
Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, *P.C.I.J., Series B, No. 2.*

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, *P.C.I.J., Series B, No. 3.*

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, *P.C.I.J., Series B, No. 4.*

Status of Eastern Carelia, Advisory Opinion, 1923, *P.C.I.J., Series B, No. 5.*

S.S. "Wimbledon", Judgments, 1923, *P.C.I.J., Series A, No. 1.*

German Settlers in Poland, Advisory Opinion, 1923, *P.C.I.J., Series B, No. 6.*

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For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

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Libyan Arab Jamahiriya/Chad

1991

I.C.J. Pleadings, East Timor (Portugal v. Australia) (not yet published)
Portugal v. Australia

**I.C.J. Pleadings, Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal)* (not yet published)
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**I.C.J. Pleadings, Passage through the Great Belt (Finland v. Denmark)*
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1996

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Pakistan v. India

CHAPTER VIII

FINANCES OF THE COURT

I. FINANCIAL REGULATIONS

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 (*f*), of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 86-87, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 52/215, of 22 December 1997, the General Assembly fixed for the year 2000 the following proportion: Switzerland 1.215%. By resolution 55/5 B, it fixed for the years 2001, 2002 and 2003 the following proportion: Switzerland 1.274%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat — see Chap. VII, p. 338, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Finance Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and/or by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994.

resolution 50/216 of 23 December 1995 and resolution 53/214 of 18 December 1998.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1999, the General Assembly (resolution 53/214) has fixed the emoluments of Members of the Court at US$160,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its fifty-sixth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1999, the daily fee of *ad hoc* judges has been fixed at US$438, being 1/365th of US$160,000.

The emoluments of the judges are thus as set out on the following scale:

President:	US$
Annual salary	160,000
Special allowance	15,000
Vice-President:	
Annual salary	160,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members:	
Annual salary	160,000
Judges ad hoc:	
Fee of US$438 for each day on which they exercise their functions.	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December

1983, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990 and resolution 53/214 of 18 December 1998.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1999 (resolution 53/214), if a Member of the Court has served a full term of nine years, the amount of the annual pension shall be US$60,000 in 1999, US$70,000 in 2000 and thereafter one-half of the annual salary. Members of the Court who were in office or elected on or before 1 January 1999, and who have served for more than nine years shall be entitled to a maximum pension of two-thirds of his or her annual salary. The retirement pension is reduced if he or she has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary. By its resolution 53/214 of 18 December 1998, the General Assembly decided that pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly*,
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,
>
> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The

Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1999, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$15,561.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 0 as at 1 July 2001. For temporary staff the subsistence allowance is fixed at 469 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 178, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,975,651 guilders as from 1 January 2000 and to 2,015,164 guilders as from 1 January 2001.

II. BUDGET FOR THE BIENNIUM 2000-2001

1. Ordinary Expenses

The Budget of the Court for the biennium 2000-2001, which forms Part III, Section 5, of the Budget of the United Nations, was adopted by the General Assembly on 23 December 1999 (resolution 54/250); the revised appropriations were adopted by General Assembly resolution 55/239 of 23 December 2000.

PROGRAMME UN.N.07.181: MEMBERS OF THE COURT	US$	US$
Salaries and allowances	4,939,300	
Pensions	2,379,900	
Travelling expenses	154,800	
Education grants	67,300	
		7,541,300
PROGRAMME UN.N.07.182: THE REGISTRY		
Salaries — established posts	4,661,700	
Salaries — temporary posts	531,400	
Common staff costs	1,763,900	
Salaries and travel costs of temporary assistance	1,539,600	
Consultants	36,900	
Travelling on official business	43,700	
Overtime	83,700	
Representation allowance	7,200	
Hospitality	12,000	
		8,762,500
PROGRAMME UN.N.07.800: COMMON SERVICES		
Contribution to the Carnegie Foundation	1,098,400	
General operating expenses	327,600	
Contractual printing	611,600	
Contracts — external translation	200,000	
Data processing services	72,300	
Supplies and materials	145,300	
Library	90,400	
Furniture and equipment	147,100	
Miscellaneous expenses	38,700	
Acquisition/replacement office automation equipment	225,700	
		3,957,900
		20,261,700

2. Unforeseen and Extraordinary Expenses

On 23 December 1999 the General Assembly, in accordance with previous practice, adopted resolution 54/252, containing the following provisions:

> "*The General Assembly*
>
> 1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in

the biennium 2000-2001 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $330,000;

(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $50,000;

(iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;

(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of $400,000;

(v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $25,000."

3. *Audit of Accounts*

The accounts were audited by the competent authorities from 26 February to 2 March 2001.

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PRINTED IN THE NETHERLANDS

ISSN 0074-445X
ISBN 92-1-170078-7